

City of Fremantle

MINUTES

Planning Services Committee

Wednesday, 7 January 2009
6.00 pm

COMMITTEE MEMBERS

Mayor Peter Tagliaferri

Cr Les Lauder
Cr Jon Strachan
Cr John Dowson
Cr Bill Massie
Cr John Alberti
Cr Robert Fittock

City Ward
South Ward
East Ward
Hilton Ward
Beaconsfield Ward
North Ward

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PLANNING SERVICES COMMITTEE

Minutes of the Planning Services Committee
held in the Council Chambers, Fremantle City Council
on 7 January 2009 at 6.00 pm.

DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Presiding Member declared the meeting open at 6.00 pm.

NYOONGAR ACKNOWLEDGEMENT STATEMENT

"We acknowledge this land that we meet on today is part of the traditional lands of the Nyoongar people and that we respect their spiritual relationship with their country. We also acknowledge the Nyoongar people as the custodians of the greater Fremantle/Walyalup area and that their cultural and heritage beliefs are still important to the living Nyoongar people today."

IN ATTENDANCE

Peter Tagliaferri	Mayor / Presiding Member
Cr Robert Fittock	Deputy Presiding Member / North Ward (Entered 6:09pm)
Cr Donna Haney	City Ward
Cr Bill Massie	Hilton Ward
Cr John Alberti	Beaconsfield Ward
Mr Philip St John	Director Planning and Development Services
Mr Steve Sullivan	A/Manager Planning Services
Ms Rowena Amistad	Administration Team Leader
Ms Tina Hume	Minute Secretary (Administration Officer)

There were approximately 2 members of the public and 1 member/s of the press in attendance.

APOLOGIES

Cr John Dowson	East Ward
Cr Jon Strachan	South Ward

LEAVE OF ABSENCE

Nil

RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

PUBLIC QUESTION TIME

Nil

DEPUTATIONS / PRESENTATIONS

The following member/s of the public spoke in favour of item PSC0901-345:

Ms Gena Binet

The following member/s of the public spoke in favour of item PSC0901-346:

Ms Gena Binet

The following member/s of the public spoke against item PSC0901-347:

Mr Fernando Docarmo

DISCLOSURES OF INTEREST BY MEMBERS

Nil

LATE ITEMS NOTED

Nil

CONFIRMATION OF MINUTES

MOVED: Mayor, Peter Tagliaferri

That the Minutes of the Planning Services Committee dated 3 December 2008 as listed in the Council Agenda dated 17 December 2008 be confirmed.

CARRIED: 4/0

For	Against
Mayor, Peter Tagliaferri Cr John Alberti Cr Donna Haney Cr Bill Massie	

TABLED DOCUMENTS

The following documents were tabled at the meeting and are attached to the Minutes:

1. Donna Geyer Owner (Lot) 79 Kwong Alley, North Fremantle – Request to defer item to 4 February 2009 PSC meeting relating to PSC0901-349.
2. Swanbourne Street structure plan as previously adopted – 2. Proposed amended Swanbourne Street structure plan relating to PSC0901-353.

REPORTS BY OFFICERS (COMMITTEE DELEGATION)

The following items are subject to clause 1.1 and 2.1 of the City of Fremantle Delegated Authority Register

PSC0901-351 SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY

Acting under authority delegated by the Council the Manager Development Services determined, in some cases subject to conditions, each of the applications listed in the Attachments and relating to the places and proposal listed.

OFFICER'S RECOMMENDATION/COMMITTEE DECISION

MOVED: Mayor, Peter Tagliaferri

That the information is noted.

CARRIED: 4/0

For	Against
Mayor, Peter Tagliaferri Cr John Alberti Cr Donna Haney Cr Bill Massie	

REPORTS BY OFFICERS (COUNCIL DECISION)**PSC0901-352 LOCAL PLANNING POLICY - LPP2.7 ARCHAEOLOGICAL INVESTIGATION AS A CONDITION OF PLANNING APPROVAL - FINAL ADOPTION**

DataWorks Reference:	117/032
Disclosure of Interest:	Nil
Responsible Officer:	Manager Planning Projects
Actioning Officer:	Senior Planning Officer
Decision Making Level:	Council
Previous Item Number/s:	PSC0809-274
Attachments:	1. Draft local planning policy LPP2.7 as advertised for public comment 2. Copies of Submissions

EXECUTIVE SUMMARY

The purpose of this report is to present for Council's consideration and final adoption local planning policy LPP2.7 - 'Archaeological Investigation as a Condition of Planning Approval.'

The local planning policy has been prepared in order to compliment clause 7.7 in Local Planning Scheme No. 4 (LPS4) which allows Council to require an archaeological investigation to be carried out as a condition of planning approval in certain circumstances.

The draft policy has been advertised for public comment. Three submissions have been received, all from practicing archaeologists, suggesting amendments to some parts of the draft policy.

Following consideration of the submissions it is recommended that the policy be adopted with some modifications in response to the submissions. The Western Australian Planning Commission requires the policy to also be referred to the Commission for its approval before it can become operative.

BACKGROUND

On 28 November 2007 Council resolved to adopt Amendment No. 3 to Local Planning Scheme No. 4 (LPS4). This amendment created a provision allowing Council to impose a condition on a planning approval requiring an archaeological investigation to be carried out in cases where the approval relates to a place on the Heritage List or in a Heritage Area and where the site is either vacant or the approved development proposes total or substantial redevelopment.

On 2 April 2008 the City was notified that the Minister for Planning and Infrastructure was not prepared to grant final approval to the amendment until such time as two modifications were incorporated. These modifications required that Council needed to have 'reasonable evidence' of the archaeological significance of the place, and that a local planning policy

be adopted outlining the manner in which such an investigation is to be conducted. This policy is also required to be approved by the Western Australian Planning Commission.

On 23 May 2008 amendment number 3 to LPS4 was published in the *Government Gazette*. The modifications that were directed by the Minister had been incorporated within the amendment at time of gazettal.

On 22 October 2008 Council resolved to adopt for the purpose of public advertising draft Local Planning Policy 2.7 'Archaeological Investigation as a Condition of Planning Approval'.

STATUTORY AND POLICY ASSESSMENT

Clause 2.2.1(b) of LPS4 allows Council to prepare a local planning policy in respect to any matter related to planning and development any part of the Scheme area.

Clause 2.4 of LPS4 outlines the procedures for preparing a local planning policy.

Clause 7.7.1 of LPS4 allows Council, with respect to a property on the Heritage List or in a Heritage Area, to require an archaeological investigation to be undertaken as a condition of planning approval in certain circumstances.

Clause 7.7.3(c) of LPS4 requires that a local planning policy relating to archaeological investigations is to be adopted by Council and also to be approved by the Western Australian Planning Commission.

Clause 10.5.1 of LPS4 prescribes that a planning approval lapses in the event that the development is not substantially commenced within the term of that approval. The Scheme specifies a period of 2 years from the date of determination as being the term of planning approval, unless another time period is specified by Council.

CONSULTATION

The draft local planning policy was advertised from 4 November until 2 December 2008. A copy of the draft policy as advertised is contained in Attachment 1. At the conclusion of the advertising period, the City received three public submissions.

The three public submissions are detailed in the schedule of submissions at Attachment 2. The responses were all from qualified practicing archaeologists.

In summary, the following key issues can be identified from the submissions:

- Implementation of internal process systems to allow planners to easily identify if 'reasonable evidence' exists to determine if an archaeological investigation may be required; e.g. GIS system overlay or flagging system on property records.
- Policy should also use the Heritage Council of Western Australia's Directory of Consultants as this list is also vetted and only senior experienced archaeological consultants are listed.
- The City of Fremantle's register of archaeologists should be added to the Australian Archaeological Association website.
- Amend the required contents of the archaeological investigation to require the final report to outline mitigation measures (if warranted) as well as interpretation.

- Support for policy.
- 3 months is an insufficient timeframe for completion of an archaeological investigation. The policy should be amended to extend this period to 6 – 12 months.
- Policy does not refer to preservation or protection of any archaeological findings.
- What is the definition of what constitutes an historical archaeological site?
- Policy lacks a mechanism for requiring watching briefs in cases where a site may be of low or medium archaeological potential and may not warrant a full investigation.
- Policy does not include a facility to preserve or protect an archaeologically significant site – it only allows for the assessment of a site.
- It is important to get this policy right as it is the first of its kind in Western Australia and will therefore set a precedent for other policies throughout the state.
- Archaeological investigations are similar to construction projects and people need to be aware of the cost, excavation process, research and storage of artifacts.
- Policy requires legal consideration prior to enactment to ensure it is enforceable.
- Policy is a good first step however a more comprehensive approach should be implemented outlining what archaeological aspects are important for Fremantle and list questions. Should also implement a zoning plan therefore when significant sites are identified for example wells etc so they can be included in future parks or car parking to ensure protection.

Heritage and Special Places Advisory Committee

The draft local planning policy was considered by the City's Heritage and Special Places Advisory Committee on 3 September 2008, prior to Council's adoption of the draft policy. The draft policy as adopted by Council for the purpose of public advertising incorporated more explicit references to the relationship between the policy, the City's Municipal Heritage Inventory, and the Heritage List under the provisions of LPS4, as recommended by the Advisory Committee.

PLANNING COMMENT

As outlined in the 'Background' section of this report, Council is required to adopt a local planning policy relating to archaeological investigations to give effect to the archaeological provisions contained within clause 7.7 of LPS4. This policy is also required to be approved by the Western Australian Planning Commission before it can become operative.

The submissions received are supportive of the policy in principle, but offer comments or suggestions to improve the content and application of the policy. In response to the submissions officers consider that it would be appropriate for the final version of the policy to incorporate a number of modifications under the relevant headings in the policy as follows:

Suitably Qualified Person

It is recommended that the wording of the second paragraph of the draft version of the policy be amended as follows (additional /modified wording in italics):

For the purpose of undertaking an archaeological investigation, Council shall consider that a suitably qualified person is an archaeologist that is listed upon the Council's panel of heritage consultants, *and/or the Heritage Council of Western*

Australia's Directory of Consultants, and/or the Australian Association of Consulting Archaeologists' Register of Consultants.

This modification would offer developers a broader range of sources from which to select an appropriately qualified archaeologist.

It would also be appropriate to make a corresponding modification to the wording of the advisory note referred to in this section of the policy to read as follows:

With regards to condition (insert number), the applicant is advised to contact the City's Planning Services Department for a current copy of the Council's panel of heritage consultants, *to contact the Heritage Council of Western Australia (www.heritage.wa.gov.au) for a current copy of its directory of consultants, and to contact the Australian Association of Consulting Archaeologists (www.aacai.com.au) for a current copy of its register of consultants.*

Archaeological Investigation

It is recommended that the period for submission to the City of the final report detailing the archaeological investigation should be increased from 3 months from the date of the planning approval as stated in the draft policy to 9 months. This responds to comments made by two submitters that 3 months is an unrealistically short period to enable archaeologists, once appointed, to complete the required work. The revised deadline would be in the mid-range of the 6 to 12 month period that submitters suggested, and is considered to be a reasonable balance between allowing sufficient time for archaeologists to complete the required investigation and not unduly delaying commencement of the approved development. The revised deadline would not prevent completion of the investigation and submission of the report within a shorter time period if this was possible in a particular case.

The draft policy already proposes that in instances where an archaeological investigation condition is imposed upon a planning approval the time period for commencement of development should be 3 years rather than the normal 2 year period referred to in clause 10.5.1 of LPS4. This is in recognition of the fact that compliance with the archaeological investigation condition will delay an applicant's ability to commence development. Notwithstanding the recommendation to increase the period for completion of the investigation from 3 to 9 months, a 3 year period for commencement of development is still considered to be appropriate.

Archaeological Findings

Two submissions raise the issue of what should happen to any artefacts that may be excavated during the course of an investigation, and comment that the draft policy does not address this issue. The property owner in question would be the legal owner of any artefacts, however it is acknowledged that in some circumstances owners may consider voluntarily donating or loaning artefacts to another party. In response to this issue it is recommended that the following additional paragraph should be included in the final version of the policy:

In circumstances where a property owner may not wish to retain possession of any artefact(s) that may be excavated in the course of an archaeological investigation, the owner is encouraged to contact the City's Planning Services Department in the first instance to discuss the possible voluntary donation or loan of the artefact(s) to another party.

CONCLUSION

In relation to other issues raised by submitters, it is considered that these are either already adequately dealt with in the draft policy or are outside the scope of the policy, particularly bearing in mind that the policy must be consistent with the provisions of clause 7.7 of LPS4. Legal advice was obtained by the City to assist in the drafting of the Scheme Amendment that introduced the provisions in clause 7.7 and given the subsidiary status of the policy relative to the Scheme it is considered that there is no need to seek further legal advice on the drafting of the policy at this stage.

The major issue raised by submitters which has not been addressed in the recommended modifications to the policy outlined above is the issue of mitigation of the impact of development upon any archaeological findings that may be revealed by an investigation. The relevance of this issue is acknowledged, however it is important to understand that the scope of the policy is determined by the scope of the provisions in clause 7.7 of LPS4. The previous report to Council dealing with adoption of the draft policy for public advertising emphasized that the scope of the Scheme provisions, and hence the policy, gives the City the statutory ability to require an archaeological investigation to be carried out prior to commencement of an approved development, but does not give the City the ability to rescind a lawful planning approval or compel a developer to modify an approved development to mitigate its impact in the event of the archaeological investigation revealing findings of significance.

However, the policy does state that once an investigation is completed and its findings submitted to the City, no development works can commence within a period of less than one month. The policy also states that the City will refer a copy of the completed report to the Heritage Council of WA. The intent behind the requirement that development must not start within one month of receipt of the report is to provide a 'window of opportunity' to enable possible courses of action to be considered and discussed with the applicant and other appropriate parties. The policy states that should any findings be considered significant enough to warrant preservation, any stop to the approved development will need to be directed by the Heritage Council under the provisions of the heritage of Western Australia Act 1990.

It is recommended that Council approves final adoption of the policy incorporating the modifications outlined in the 'Planning Comment' section above, and also refers the policy to the Western Australian Planning Commission for its approval in accordance with the requirements of clause 7.7.3 (c) of LPS4.

OFFICER'S RECOMMENDATION

1. That Council note the submissions received as detailed in the officers' report.
2. That Council adopt local planning policy LPP2.7 'Archaeological Investigation as a Condition of Planning Approval' in accordance with procedures set out in clause 2.4 of the City of Fremantle Local Planning Scheme No. 4 incorporating modifications as shown below:

CITY OF FREMANTLE

LOCAL PLANNING POLICY 2.7

ARCHAEOLOGICAL INVESTIGATION AS A CONDITION OF PLANNING APPROVAL

ADOPTION DATE:

AUTHORITY: LOCAL PLANNING SCHEME NO. 4

STATUTORY BACKGROUND

Clause 7.7.1 of the City's Local Planning Scheme No. 4 (the Scheme) states that where planning approval is granted in respect of a place within a Heritage Area or included on the Heritage List, that Council may impose a condition on that planning approval which requires an archaeological investigation of the place to be undertaken and a report of that investigation to be provided to the Council for its information prior to the commencement of that approved development.

Clause 7.7.2 of the Scheme states that the condition referred to in clause 7.7.1 may be imposed where:

- (a) the place to which the planning approval relates:
 - (i) is a vacant site at the time the planning approval is granted; or
 - (ii) will be wholly or substantially redeveloped if the planning approval is implemented.
- (b) the Council has reasonable evidence the place may include contents, materials or objects that have aesthetic, historic, scientific, or social significance for the present community and future generations; and
- (c) the contents, materials and objects referred to in clause 7.7.2(b) are not subject to the Aboriginal Heritage Act, 1972.

Clause 7.1.7 of the Scheme states that the Municipal Heritage Inventory established under the previous town planning scheme, it is to have effect as the heritage list under this scheme, and entries may be removed or modified if it were entries on the heritage list under this scheme.

Clause 10.5.1 of the Scheme prescribes that a planning approval lapses in the event that the development is not substantially commenced within the term of that approval. The Scheme specifies a period of 2 years from the date of determination as being the term of planning approval, unless another time period is specified by Council.

Should this local planning policy be inconsistent with the provisions of the City's Scheme, the Scheme will prevail.

PURPOSE

The purpose of this policy is to;

1. describe the circumstances when Council will, as a condition of planning approval, require that an archaeological investigation be undertaken; and
2. outline the manner in which Council will consider this condition to be satisfied.

POLICY

In the context of this policy, the term 'archaeological artefacts' will be taken as meaning any contents, materials or objects that have an aesthetic, historical, scientific or social significance for the present community and future generations, as outlined in clause 7.7.2(b) of the Scheme.

REASONABLE EVIDENCE

Clause 7.7.2(b) of the City's Scheme states that in order for an archaeological investigation to be undertaken as a condition of planning approval, Council must have reasonable evidence that the place may have archaeological artefacts.

For this purpose, Council will consider the following as constituting reasonable evidence upon which to require an archaeological investigation:

- any existing conservation plan;
- in the case of a property listed upon the State Register of Heritage Places, any Heritage Council of Western Australia assessment;
- any documented evidence that appears upon the City's Municipal Heritage Inventory;
or
- expert advice available to Council supported in the form of maps, historic photographs, recorded past uses, past finds or documented oral history;

which may indicate the potential for archaeological artefacts to exist upon the development site.

Where Council considers that there is reasonable evidence that indicates the possibility for archaeological artefacts to be located upon the development site Council may, as a consequence, require an archaeological investigation to be carried out as a condition of approval. In these instances the following condition shall be applied:

Prior to the commencement of development and at the applicant's expense, an archaeological investigation is to be undertaken by a suitably qualified person.

SUITABLY QUALIFIED PERSON

Clause 7.7.3(b) of the City's Scheme requires that where an archaeological investigation is to be undertaken, it shall be conducted by a suitably qualified person.

For the purpose of undertaking an archaeological investigation, Council shall consider that a suitably qualified person is an archaeologist that is listed upon the Council's panel of heritage consultants.

Applicants should contact the City's Planning Services Department for a current copy of the Council's panel of heritage consultants, and/or the Heritage Council of Western Australia's Directory of Consultants, and/or the Australian Association of Consulting Archaeologists' Register of Consultants.

Any archaeologist selected for undertaking an investigation must be responsible for providing adequate indemnity against liability for all loss, damage or injury to persons or property caused as a result of the investigation.

In order to advise applicants the following advisory note will be applied, referencing to the number of the condition prescribing that an archaeological investigation is to be undertaken:

With regards to condition (insert number), the applicant is advised to contact the City's Planning Services Department for a current copy of the Council's panel of heritage consultants, to contact the Heritage Council of Western Australia (www.heritage.wa.gov.au) for a current copy of its directory of consultants, and to contact the Australian Association of Consulting Archaeologists (www.aacai.com.au) for a current copy of its register of consultants.

ARCHAEOLOGICAL INVESTIGATION

Once the services of an archaeologist are secured the chosen archaeologist is expected to be responsible for the submission of a final report outlining the archaeological investigation within nine (9) months from the date of planning approval, to the satisfaction of Council.

In order to fulfill these responsibilities, Council will provide the archaeologist with the following:

- 1.the base evidence upon which the investigation has been requested;
- 2.the proposed development plans for the site; and
- 3.any additional information that City officers consider warranted in order to help with the archaeological investigation.

The final archaeological report should include:

- 1.a brief summary of the subject site, including a study background of the property referencing the evidence upon which the investigation has been requested;
- 2.a description of the site investigations carried out, including location and dimensions of any exploratory dig(s) undertaken;
- 3.all detailed recordings of any findings of archaeological artefacts through surveyed measurements, drawings, documented descriptions and/or photographs, all portrayed upon a site plan(s) when appropriate;
- 4.an analysis of the historical archaeological (including built environment) evidence with the archival documentation (e.g. maps, photographs, documented past use); and
- 5.an archaeological conservation plan including recommendations for heritage interpretation, if warranted.

Council will require one (1) unbound hard copy, four (4) bound copies in A4 format and one (1) electronic copy on disc in either Microsoft Word (.doc) or Adobe Acrobat (.pdf) format, including all graphic materials.

Of the bound hard copies of the report submitted, Council will provide:

- one copy to the Heritage Council of Western Australia;
- one copy to the Local History Section of the City's library; and
- one copy to the subject property's owner.

COMMENCEMENT OF APPROVED DEVELOPMENT

Once the final archaeological report is submitted to Council, no development works may be carried out upon the subject property for a period of no less than one month. This month is to be taken from the date of receipt of the final archaeological report, as submitted to Council. Works may only occur prior to the expiry of this one month period if written consent is received from Council.

Upon expiry of this one month period, works may begin in accordance with the planning approval granted by Council.

TERM OF PLANNING APPROVAL

In accordance with clause 10.5.1 of the City's Scheme, Council ordinarily grants a term of planning approval that requires the substantial commencement of a development to occur within 2 years from the date of consent, unless otherwise specified in the approval.

However Council does recognise that there will be an unavoidable time cost for undertaking an archaeological investigation and therefore in acknowledgment of this cost Council will grant a term of planning approval with a commencement date of three years, from the date of approval.

In situations where an archaeological investigation is to be undertaken out as a condition of approval, the following condition will be applied:

The development hereby permitted must be substantially commenced within three (3) years from the date of this decision letter.

Whilst an archaeological investigation may be undertaken in order to satisfy a condition of planning approval, this investigation in itself will not be considered the substantial commencement of the development, as prescribed within the term of planning approval.

Archaeological Findings

Council recognises that since an archaeological investigation was instigated as a condition of planning approval, any archaeological evidence consequently discovered cannot form the basis of Council rescinding a legal planning approval.

The applicant is entitled to proceed with the development upon the property in accordance with the planning approval granted, unless voluntarily modified by the applicant.

In circumstances where a property owner may not wish to retain possession of any artefact(s) that may be excavated in the course of an archaeological investigation, the owner is encouraged to contact the City's Planning Services Department in the first instance to discuss the possible voluntary donation or loan of the artefact(s) to another party.

3. That local planning policy LPP2.7 'Archaeological Investigation as a Condition of Planning Approval' as detailed in (2) above be referred to the Western Australian Planning Commission for approval in accordance with the requirements of clause 7.7.3 (c) of the City of Fremantle Local Planning Scheme No. 4.

Mayor, Peter Tagliaferri moved an amendment to the Officer's Recommendation to remove the following wording from:

within nine (9) months from the date of planning approval, to the satisfaction of Council.

ARCHAEOLOGICAL INVESTIGATION

Once the services of an archaeologist are secured the chosen archaeologist is expected to be responsible for the submission of a final report outlining the archaeological investigation within nine (9) months from the date of planning approval, to the satisfaction of Council.

CARRIED: 4/0

For	Against
Mayor, Peter Tagliaferri Cr John Alberti Cr Donna Haney Cr Bill Massie	

COMMITTEE RECOMMENDATION

1. That Council note the submissions received as detailed in the officers' report.
2. That Council adopt local planning policy LPP2.7 'Archaeological Investigation as a Condition of Planning Approval' in accordance with procedures set out in clause 2.4 of the City of Fremantle Local Planning Scheme No. 4 incorporating modifications as shown below:

CITY OF FREMANTLE

LOCAL PLANNING POLICY 2.7

ARCHAEOLOGICAL INVESTIGATION AS A CONDITION OF PLANNING APPROVAL

ADOPTION DATE:

AUTHORITY: LOCAL PLANNING SCHEME NO. 4

STATUTORY BACKGROUND

Clause 7.7.1 of the City's Local Planning Scheme No. 4 (the Scheme) states that where planning approval is granted in respect of a place within a Heritage Area or included on the Heritage List, that Council may impose a condition on that planning

approval which requires an archaeological investigation of the place to be undertaken and a report of that investigation to be provided to the Council for its information prior to the commencement of that approved development.

Clause 7.7.2 of the Scheme states that the condition referred to in clause 7.7.1 may be imposed where:

- (a) the place to which the planning approval relates:
 - (i) is a vacant site at the time the planning approval is granted; or
 - (ii) will be wholly or substantially redeveloped if the planning approval is implemented.
- (b) the Council has reasonable evidence the place may include contents, materials or objects that have aesthetic, historic, scientific, or social significance for the present community and future generations; and
- (c) the contents, materials and objects referred to in clause 7.7.2(b) are not subject to the Aboriginal Heritage Act, 1972.

Clause 7.1.7 of the Scheme states that the Municipal Heritage Inventory established under the previous town planning scheme, it is to have effect as the heritage list under this scheme, and entries may be removed or modified if it were entries on the heritage list under this scheme.

Clause 10.5.1 of the Scheme prescribes that a planning approval lapses in the event that the development is not substantially commenced within the term of that approval. The Scheme specifies a period of 2 years from the date of determination as being the term of planning approval, unless another time period is specified by Council.

Should this local planning policy be inconsistent with the provisions of the City's Scheme, the Scheme will prevail.

PURPOSE

The purpose of this policy is to;

- 3. describe the circumstances when Council will, as a condition of planning approval, require that an archaeological investigation be undertaken; and
- 4. outline the manner in which Council will consider this condition to be satisfied.

POLICY

In the context of this policy, the term 'archaeological artefacts' will be taken as meaning any contents, materials or objects that have an aesthetic, historical, scientific or social significance for the present community and future generations, as outlined in clause 7.7.2(b) of the Scheme.

REASONABLE EVIDENCE

Clause 7.7.2(b) of the City's Scheme states that in order for an archaeological investigation to be undertaken as a condition of planning approval, Council must have reasonable evidence that the place may have archaeological artefacts.

For this purpose, Council will consider the following as constituting reasonable evidence upon which to require an archaeological investigation:

- any existing conservation plan;
- in the case of a property listed upon the State Register of Heritage Places, any Heritage Council of Western Australia assessment;
- any documented evidence that appears upon the City's Municipal Heritage Inventory; or
- expert advice available to Council supported in the form of maps, historic photographs, recorded past uses, past finds or documented oral history;

which may indicate the potential for archaeological artefacts to exist upon the development site.

Where Council considers that there is reasonable evidence that indicates the possibility for archaeological artefacts to be located upon the development site Council may, as a consequence, require an archaeological investigation to be carried out as a condition of approval. In these instances the following condition shall be applied:

Prior to the commencement of development and at the applicant's expense, an archaeological investigation is to be undertaken by a suitably qualified person.

SUITABLY QUALIFIED PERSON

Clause 7.7.3(b) of the City's Scheme requires that where an archaeological investigation is to be undertaken, it shall be conducted by a suitably qualified person.

For the purpose of undertaking an archaeological investigation, Council shall consider that a suitably qualified person is an archaeologist that is listed upon the Council's panel of heritage consultants. Applicants should contact the City's Planning Services Department for a current copy of the Council's panel of heritage consultants, and/or the Heritage Council of Western Australia's Directory of Consultants, and/or the Australian Association of Consulting Archaeologists' Register of Consultants.

Any archaeologist selected for undertaking an investigation must be responsible for providing adequate indemnity against liability for all loss, damage or injury to persons or property caused as a result of the investigation.

In order to advise applicants the following advisory note will be applied, referencing to the number of the condition prescribing that an archaeological investigation is to be undertaken:

With regards to condition (insert number), the applicant is advised to contact the City's Planning Services Department for a current copy of the Council's panel of heritage consultants, to contact the Heritage Council of Western Australia (www.heritage.wa.gov.au) for a current copy of its directory of consultants, and to contact the Australian Association of Consulting

Archaeologists (www.aacai.com.au) for a current copy of its register of consultants.

ARCHAEOLOGICAL INVESTIGATION

Once the services of an archaeologist are secured the chosen archaeologist is expected to be responsible for the submission of a final report outlining the archaeological investigation.

In order to fulfill these responsibilities, Council will provide the archaeologist with the following:

- 4.the base evidence upon which the investigation has been requested;
- 5.the proposed development plans for the site; and
- 6.any additional information that City officers consider warranted in order to help with the archaeological investigation.

The final archaeological report should include:

6. a brief summary of the subject site, including a study background of the property referencing the evidence upon which the investigation has been requested;
7. a description of the site investigations carried out, including location and dimensions of any exploratory dig(s) undertaken;
8. all detailed recordings of any findings of archaeological artefacts through surveyed measurements, drawings, documented descriptions and/or photographs, all portrayed upon a site plan(s) when appropriate;
9. an analysis of the historical archaeological (including built environment) evidence with the archival documentation (e.g. maps, photographs, documented past use); and
- 10.an archaeological conservation plan including recommendations for heritage interpretation, if warranted.

Council will require one (1) unbound hard copy, four (4) bound copies in A4 format and one (1) electronic copy on disc in either Microsoft Word (.doc) or Adobe Acrobat (.pdf) format, including all graphic materials.

Of the bound hard copies of the report submitted, Council will provide:

- one copy to the Heritage Council of Western Australia;
- one copy to the Local History Section of the City's library; and
- one copy to the subject property's owner.

COMMENCEMENT OF APPROVED DEVELOPMENT

Once the final archaeological report is submitted to Council, no development works may carried out upon the subject property for a period of no less than one month. This month is to be taken from the date of receipt of the final archaeological report, as submitted to Council. Works may only occur prior to the expiry of this one month period if written consent is received from Council.

Upon expiry of this one month period, works may begin in accordance with the planning approval granted by Council.

TERM OF PLANNING APPROVAL

In accordance with clause 10.5.1 of the City’s Scheme, Council ordinarily grants a term of planning approval that requires the substantial commencement of a development to occur within 2 years from the date of consent, unless otherwise specified in the approval.

However Council does recognise that there will be an unavoidable time cost for undertaking an archaeological investigation and therefore in acknowledgment of this cost Council will grant a term of planning approval with a commencement date of three years, from the date of approval.

In situations where an archaeological investigation is to be undertaken out as a condition of approval, the following condition will be applied:

The development hereby permitted must be substantially commenced within three (3) years from the date of this decision letter.

Whilst an archaeological investigation may be undertaken in order to satisfy a condition of planning approval, this investigation in itself will not be considered the substantial commencement of the development, as prescribed within the term of planning approval.

Archaeological Findings

Council recognises that since an archaeological investigation was instigated as a condition of planning approval, any archaeological evidence consequently discovered cannot form the basis of Council rescinding a legal planning approval.

The applicant is entitled to proceed with the development upon the property in accordance with the planning approval granted, unless voluntarily modified by the applicant.

In circumstances where a property owner may not wish to retain possession of any artefact(s) that may be excavated in the course of an archaeological investigation, the owner is encouraged to contact the City’s Planning Services Department in the first instance to discuss the possible voluntary donation or loan of the artefact(s) to another party.

- 3. That local planning policy LPP2.7 ‘Archaeological Investigation as a Condition of Planning Approval’ as detailed in (2) above be referred to the Western Australian Planning Commission for approval in accordance with the requirements of clause 7.7.3 (c) of the City of Fremantle Local Planning Scheme No. 4.

CARRIED: 4/0

For	Against
Mayor, Peter Tagliaferri Cr John Alberti Cr Donna Haney Cr Bill Massie	

**PSC0901-353 SWANBOURNE & KNUTSFORD STREET STRUCTURE PLAN -
ADOPTION TO READVERTISE**

DataWorks Reference:	115/049
Disclosure of Interest:	Nil
Responsible Officer:	Manager Planning Projects
Actioning Officer:	Strategic Planning Officer
Decision Making Level:	Council
Previous Item Number/s:	SP0312-58
Attachments:	1. Swanbourne Street Structure Plan as previously adopted 2. Proposed amended Swanbourne Street Structure Plan

EXECUTIVE SUMMARY

On 15 December 2003 Council endorsed the Swanbourne Street Structure Plan.

A revised Structure Plan has recently been submitted on behalf of Landcorp, the landowner, which modifies densities, building heights, road layout and the location of public open space.

Clause 6.2.14 of Local Planning Scheme No. 4 outlines Council's ability to vary a structure plan. The proposed modifications to the structure plan are significant and require the amended plan to be advertised.

It is recommended that Council approves the advertising of the proposed revised Structure Plan for advertising purposes. Upon completion of the advertising process a further report on the revised Structure Plan, including details of any submissions received, will be reported to Council.

BACKGROUND

On 15 December 2003 Council approved the Swanbourne Street Structure Plan (Structure Plan) for the area bound by Stevens, Amherst, Blinco and Swanbourne Streets under Town Planning Scheme No. 3.

On 25 February 2005 the City's former Town Planning Scheme No. 3 was amended to incorporate Lot 1354 Knutsford Street into Development Plan No. 21, which allocated residential density coding of R25, R35 and R40 to various parts of the subject lot based upon the Structure Plan proposals.

In March 2007 Town Planning Scheme No. 3 was superseded by the gazettal of Local Planning Scheme No. 4 (LPS4). The Structure Plan area (including Development Plan No. 21) was designated as Development Area 4 under LPS4, and Schedule 11 of LPS4 states that land use and development in the area is to be in accordance with the Structure Plan.

On 3 April 2007 the Western Australian Planning Commission (WAPC) determined that the Swanbourne Street Structure Plan did not require WAPC endorsement as the "local scheme had given statutory standing to the Swanbourne Street Structure Plan by virtue of its inclusion in Schedule 11. This disposes of the need for the WAPC to separately consider and endorse the (same) structure plan".

In January 2008, at the request of the landowner (Landcorp), Council initiated Amendment 11 to LPS4 to rezone Lot 1354 Knutsford Street from 'Development Area' to 'Residential' with a density coding of R35 over part of the property and R60 over the remainder. Amendment 11 was gazetted on 12 December 2008 and consequently Lot 1354 no longer forms part of the Structure Plan area.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No. 4

The subject site is currently zoned as 'Development Area 4' under the City's Scheme, with Clause 12.11; Schedule 12 of LPS4 requiring that a structure plan is to be adopted prior to the approval of development.

Clause 6.2.10 of LPS4 requires that upon final adoption by Council, a structure plan is to be referred to the Western Australian Planning Commission for final endorsement. In this instance, the response of the WAPC on 3 April 2007 referred to above dispensed with this requirement.

Clause 6.2.14 makes provision for Council to vary a structure plan. This may be done in one of two ways:

- (a) by resolution if, in the opinion of the Council, the variation does not materially alter the intent of the structure plan –
- (b) otherwise, in accordance with the procedures set out in clause 6.2.6 onwards (which requires public advertising)

In this instance the proposed revisions to the Swanbourne Street Structure Plan are considered to be material, and consequently pursuant to clause 6.2.6 the revised structure plan requires advertising in accordance with the requirements of clause 6.2.8.1 of LPS4.

PLANNING COMMENT

Development Area 4 includes Lot 1356, Lot 1186 and P40767 and Lot 1356 and P160585 a total land area of 8.3888 hectares.

Landcorp has submitted a revised Structure Plan for the area in recognition of more current design approaches, which facilitate coordinated development of the Swanbourne Street Structure Plan area with the approach adopted for the approved Knutsford Street East Structure Plan area to the east.

The revised Swanbourne Street Structure Plan proposes the following modifications:

- Density
 - The existing Structure Plan proposes a variety of lots sizes which result in an overall density yield of R35, creating 155 lots.
 - The revised Structure Plan proposes a broader range of densities being R25, R30, R40, R60 and R80, with a greater proportion of higher density dwellings creating an estimated maximum dwelling yield of 306.

- Roads
 - The internal road layout has been modified with the key change being the extension of Chalmers Street southwards through the centre of the Structure Plan area, stopping at the beginning of the Western Power sub station.
 - Also previously proposed laneways have been replaced by full width roads and in some cases realigned.

- Public Open Space
 - Relocation of POS from the centre of the site into two separate locations:
 - the north west corner which expands the existing park on the corner of Knutsford and Swanbourne Street; and,
 - to the south east corner along Amherst Street abutting the Western Power substation, acting as a buffer between the substation and residential areas.

- Building Height
 - The revised Structure Plan proposes a range of heights with R25 to R40 densities complying with the R-Code height provisions.
 - However multi-residential development so R60 to R80 development is proposed to have a maximum height of 4 storeys.

- Deletion of Lot 1354 Knutsford Street from the Structure Plan area following its rezoning from Development zone to Residential under Amendment No. 11 to LPS4 as described in the Background section of this report above.

CONCLUSION

As stated above, these revisions are considered to be sufficiently material to warrant advertising prior to Council determining the planning merits of the modified structure plan. However, authorising advertising of the plan does not commit the Council to a particular position at this stage with regard to the merits of the plan. The matter will be reported back to Council for consideration of all submissions received after the advertising period has ended.

OFFICER'S AND COMMITTEE RECOMMENDATION**MOVED: Mayor, Peter Tagliaferri**

1. That the revised Swanbourne Street Local Structure Plan submitted on behalf of Landcorp be advertised in accordance with the requirements of clause 6.2.8 of the City of Fremantle Local Planning Scheme No. 4.
2. That the applicants be advised that Council's authorisation for the structure plan to be advertised does not imply Council support for the development as proposed in the structure plan at this stage. The Council will not form a view on the planning merits of the revised structure plan until it has had the opportunity to consider any submissions received in response to advertising of the plan, and taken into account other relevant planning considerations.

CARRIED: 4/0

For	Against
Mayor, Peter Tagliaferri Cr John Alberti Cr Donna Haney Cr Bill Massie	

REPORTS BY OFFICERS (committee delegation)

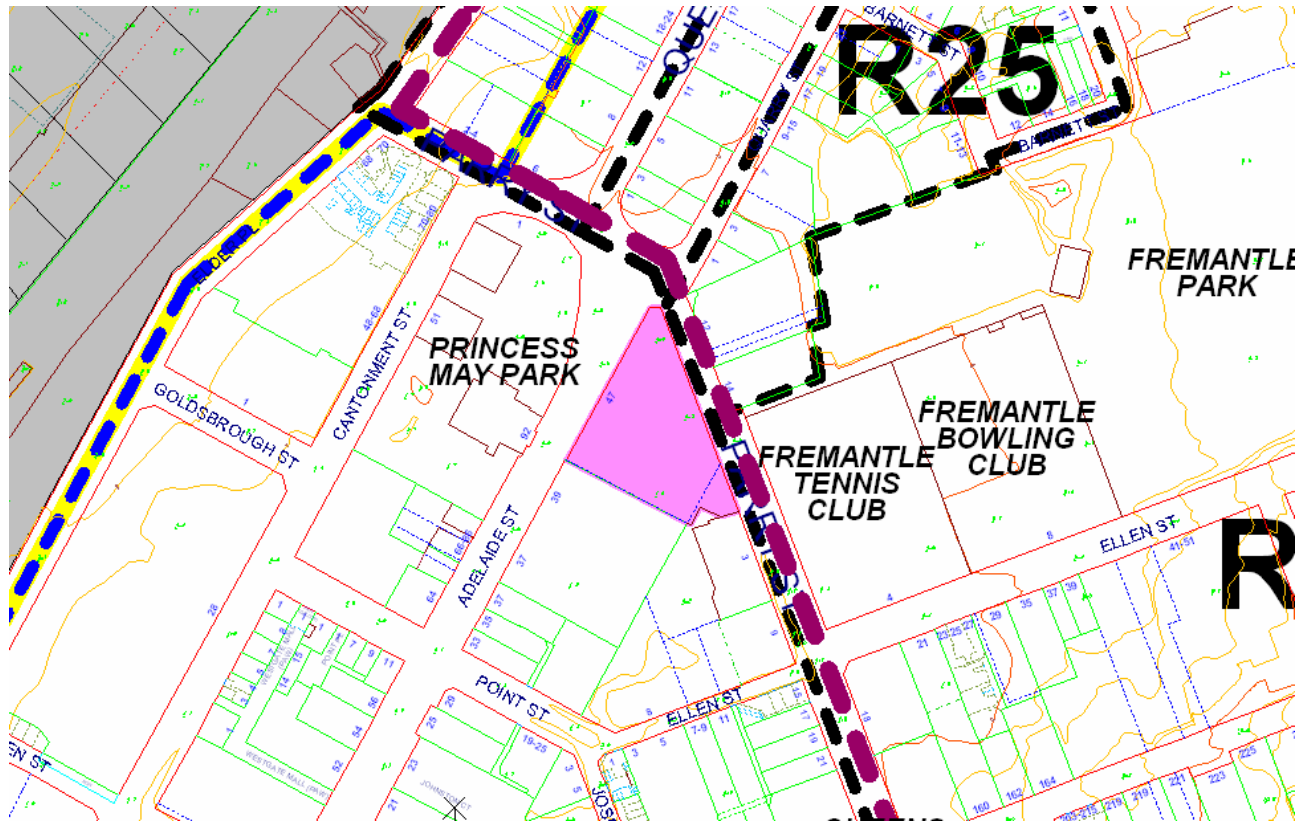
The following items are subject to clause 1.1 and 2.1 of the City of Fremantle Delegated Authority Register

Cr R Fittock arrived at 6:09 pm prior to consideration of the following item.

PSC0901-345 ADELAIDE STREET NO.47 (LOT 4 & 5), FREMANTLE & PARRY STREET NO.3 (LOT 10), FREMANTLE - SINGLE STOREY COMMUNITY PURPOSE BUILDING ADDITION AND ADDITIONS AND ALTERATIONS TO THE EXISTING COMMUNITY PURPOSE BUILDING (JL DA531/08)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Responsible Officer: Manager Development Services
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Attachments 1: Development Plans
Date Received: 8 October 2008
Owner Name: Roman Catholic Archbishop of Perth
Submitted by: Kelsall Binet Architects
Scheme: City Centre
Heritage Listing: Heritage Listed – MHI Level 1A & Historic/ Archaeological Site

Existing Landuse: Community Purpose & Place of Worship
Use Class: Community Purpose & Place of Worship
Use Permissibility: P & P



EXECUTIVE SUMMARY

This application is for the construction of a single storey 'Community Purpose' building addition at No.47 Adelaide Street, Fremantle, and a single storey addition and alterations to the existing 'Community Purpose' building located at No.3 Parry Street, Fremantle.

The application is presented before Planning Services Committee as No.47 Adelaide Street is listed on the Heritage Council of Western Australia's Register of Heritage Places.

The proposal will not create any significant impacts on the heritage significance of the existing buildings on the sites and therefore the application is recommended for has conditional approval.

BACKGROUND

On 19 June 2001 the City granted planning consent for an access ramp to St Patrick's Basilica (refer DA292/01) located at No.47 Adelaide Street, Fremantle (refer DA603/06).

On 10 April 2000 the City granted approval for landscaping (refer DA107/00).

On 20 January 1999 the City granted planning consent for the restoration of St Patrick's presbytery verandah (refer DA834/98).

On 15 January 2007 the City granted planning consent for the demolition of an existing community purpose building (St Patrick's Memorial Hall) located at No.47 Adelaide Street, Fremantle (refer DA603/06).

The two sites are located within the block bound by Adelaide Street, Parry Street, Ellen Street and Point Street, Fremantle. These sites are occupied by two 'Community Purpose' buildings and a 'Place of Worship' building (Basilica of St Patrick's). The lots are zoned 'City Centre' under the provisions of the City of Fremantle Local Planning Scheme 4 (LPS4).

No.47 Adelaide Street, Fremantle, is included on the Heritage Council of Western Australia's (HCWA) Register of Heritage Places. Furthermore this site is included on the City's heritage list and Municipal Heritage Inventory as Management Category level 1A.

No.3 Parry Street, Fremantle is also included on the City's Heritage list and Municipal Heritage Inventory as a Historic/ Archaeological Site.

DETAILS

On 8 October 2008 the City received a development application seeking planning consent for the construction of a single storey 'Community Purpose' building addition at No.47 Adelaide Street and additions and alterations to an existing 'Community Purpose' building located at No.3 Parry Street.

The proposed single storey 'Community Purpose' building addition for No.47 Adelaide is to replace the current 'Community Purpose' building on site located on the south/eastern boundary of this site. The City granted planning approval for the demolition of this building (refer DA603/06) however, this planning approval has since lapsed. Prior to the application lapsing the applicant requested that Council grant an extension of time for the planning approval for DA603/06 (ET18/08) which is also attached to this PSC agenda.

The single storey additions and alterations proposed for the existing 'Community Purpose' building located on No.3 Parry Street, Fremantle consist of renovating the rear toilet block area, demolishing the rear shed, altering the internal layout of the front offices, removing internal stud walls, refurbishing the kitchen area, and constructing a new covered walkway and lobby room to the rear western elevation of the building. These additions consist of approximately an increased floor area of 175m². The additions have a maximum external wall height of 3.3 metres and a roof ridge height of 5.4 metres.

CONSULTATION

Community

The application was required to be advertised in accordance with Council's L.P.P1.3 Public Notification of Planning Proposals policy. The proposal was advertised with a sign on site. The advertising period commenced 13 October 2008 and at the conclusion of the advertising period, being 27 October 2008, the City had received nil submissions.

Heritage

Heritage and Special Places Advisory Committee Comments (H&SPAC)

The application was presented to the Heritage and Special Places Advisory Committee meeting which was held on 4 November 2008. The Committee provided the following advice on the proposal:

- *The proposal is subservient to the Basilica and therefore represents a low impact.*
- *The existing street boundary wall should be retained and restored.*
- *The proposal represents a compactable extension of St Patrick's Kitchen, which would improve Parry Street's streetscape.*

The committee resolved to recommend to Council that the proposal be supported on heritage grounds.

HCWA Comments:

The application relates to a building which is on the Heritage Council of Western Australia's Register of Heritage Places and was referred to the Heritage Council for assessment. HCWA responded on 24 October 2008, stating that the development referral is supported.

Fremantle Port Authority (FPA)

The subject site is within the Fremantle Ports Referral Area 2. City of Fremantle policy L.P.P2.3: *Fremantle Port Buffer Area Development Guidelines* states that the potential risk and amenity impacts from the Port in Area 2 are not as great as in Area 1. However the policy states that the built form requirements provided in this policy apply to all non-residential development that involves a nett increase in floor area to the existing building. Therefore as this application proposes to increase the nett floor area of the existing building at No.3 Parry Street the proposal was referred to FPA for comment. The FPA responded on 25 November 2008 stating that Fremantle Ports does not have any objection to the proposed development.

STATUTORY AND POLICY ASSESSMENT

LPS4

LPS4 states in clause 10.2(h) that Council, in considering an application, can have due regard to the effect of the development upon any property that is extant upon the City's Heritage List or the State Register of Heritage Places. As mentioned previously the site is included on the States Register of Heritage Places and the City's Heritage List.

Furthermore in accordance with Clause 4.2.1, development within the City Centre zone shall, among other things:

- (iii) *conserve places of heritage significance the subject of or affected by development.*

Car parking

Clause 5.7.2 (Table 3) of LPS4 does not include vehicle parking requirements for 'Community Purpose'. However, Clause 5.7.1 (c) states that '*where vehicle parking provisions are not prescribed for a particular use the requirement will be determined by the Council*'.

Local planning policies

D.G.F20 – Princess May Park – 1 Parry and 92 Adelaide Streets, Fremantle

The objective of this policy is to:

- (i) *Create an awareness of the Local Area's heritage, it's existing character and forming elements amongst the community, developers and designers.*
- (ii) *Preserve and enhance the historic built environment of the Local Area ensuring that the elements of the area which area of particular architectural, historic and townscape importance are retained without detriment to their ability to contribute to the everyday functions of the area.*
- (iii) *Encourage sympathetic re-development and discourage development which would be detrimental to the recognized qualities of the area.*
- (iv) *Provide guidance for the exercise of the Council's discretionary powers under Town Planning Scheme No.3.*

Additionally the policy states that, 'Council will actively encourage a suitable infilling of the vacant or underutilized blocks as well as possible replacement of more recent buildings which detract from the existing urban character and its heritage values'.

D.B.H13 - Impact of Developments on Heritage Places

This policy states:

In determining any application involving heritage places (included on MHI and/or assessed from time to time by Council as being of cultural heritage significance), the Council shall have regard to:

- *the need for protection, conservation and heritage interpretation of an existing place;*
- *the likely impact of the proposed development on a place's heritage values and;*
- *all other relevant considerations such as zoning, residential amenity and/or environmental issues specified by the Scheme and outlined in the relevant policies of the Council.*

PLANNING COMMENT

In considering this application, the following key issues should be taken into consideration.

Car parking

As mentioned previously where vehicle parking provisions are not prescribed within Table 3 of LPS4 for a particular use, an appropriate car parking ratio will be determined by the Council. It is considered that 1: 30m² gross lettable area (gla) is an appropriate car parking requirement for the proposed 'Community Purpose' use as the activities to be carried out within the proposed building are considered to be consistent with those activities generally associated with an 'Office'. The proposal has been calculated over the two sites to include an additional 176m² gla and therefore the site is required to provide an additional 6 on site car bays. The applicant is proposing an additional 11 on site car bays for this proposed development and therefore the application is considered to comply with the car parking requirements of LPS4.

Heritage

The proposed Community Purpose building addition (Parish Centre) at No.47 Adelaide Street will be constructed of a mixture of building materials such as limestone, rendered brickwork, Timber Spandrel and clay tile roof.

This addition is considered to be suitably located on site, as sufficient setbacks are provided from other existing heritage significant buildings on site and Parry Street. Furthermore this addition is considered to be sympathetic to adjoining buildings and the streetscape of Parry Street in terms of architectural design, building materials, bulk, scale and building height.

The proposed additions and alterations to the existing Community Purpose building located at No.3 Parry Street consist of internal alterations and rear additions to the existing building on site.

These works are considered appropriate because they will not detract from the heritage significance of the place and will have minimal impact on the heritage fabric of the existing building. Furthermore it should be noted that the majority of these proposed works will be screened from the Parry Street streetscape by an existing 1.8 metres high solid masonry boundary fence that fronts Parry Street. These works are considered to improve the kitchen and bathroom facilities and functionality of the existing building that is consistent with today's standards.

Overall, the proposed additions and alterations will not negatively impact the original heritage fabric of the existing Basilica of St Patrick's or the St Patrick's Presbytery building. Additionally these works are considered to be sympathetic and compatible with the existing heritage significant buildings on site (Basilica of St Patrick's and the St Patrick's Presbytery). Furthermore these works are considered to help improve the existing Parry Street streetscape.

Construction over a Common Boundary

The submitted development plans propose to construct the new 'Community Purpose' building over the common boundary of lot 4 (No.47 Adelaide Street) and lot 10 (No.3 Parry Street). The applicant was contacted regarding this matter and was informed that these two lots will need to be amalgamated prior to the occupation of the new 'Community Purpose' building located on No.47 (Lots 4 & 5) Adelaide Street, Fremantle and therefore a relevant planning condition is included in the Officer's recommendation.

CONCLUSION

Overall the proposed additions and alterations are considered to be appropriate in terms of bulk, scale, design and location and therefore are compatible with the heritage significance of the existing buildings and the streetscapes of both Adelaide Street and Parry Street. The application is supported as it is consistent with the provisions of LPS4 and relevant Council policies and therefore it is recommended for approval, subject to appropriate conditions.

OFFICER'S RECOMMENDATION/COMMITTEE DECISION

MOVED: Mayor, Peter Tagliaferri

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the construction of a single storey Community Purpose building addition at No. 47 (Lot 4 & 5) Adelaide Street, Fremantle and additions and alterations to the existing 'Community Purpose' building at No. 3 (Lot 10) Parry Street, Fremantle, subject to the following condition(s):

- 1. The development and use hereby permitted shall take place in accordance with the approved plans dated 8 October 2008.**
- 2. Prior to the occupation of the hereby permitted new 'Community Purpose' building Lots 4, 5 (No.47 Adelaide Street, Fremantle) and Lot 10 (No.3 Parry Street, Fremantle) are to be legally amalgamated.**

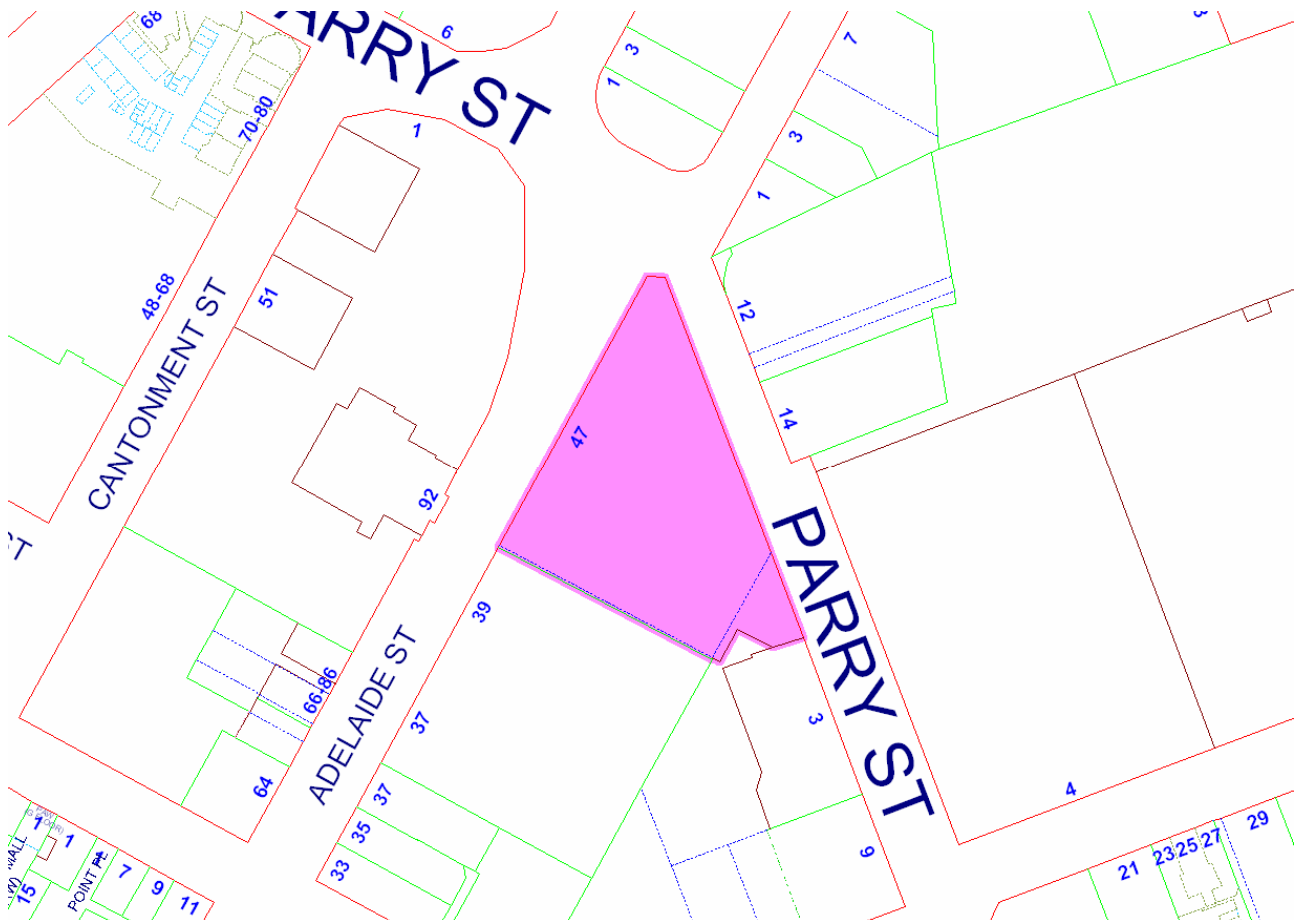
- 3. All storm water discharge shall be contained and disposed of on-site.**
- 4. The works hereby approved shall be undertaken in a manner which does not irreparably damage any original or rare fabric of the building. Should the works subsequently be removed, any damage shall be rectified to the satisfaction of the City of Fremantle.**

CARRIED: 5/0

For	Against
Mayor, Peter Tagliaferri Cr John Alberti Cr Robert Fittock Cr Donna Haney Cr Bill Massie	

PSC0901-346 ADELAIDE STREET, NO. 47 (LOTS 4 & 5), FREMANTLE - EXTENSION OF TIME OF DA603/06 FOR DEMOLITION OF PARISH HALL (KJ ET18/08)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Responsible Officer: Manager Development Services
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: DA603/06
Attachments: Applicant's Covering Letter
Date Received: 3 November 2008
Owner Name: Roman Catholic Bishop of Perth
Submitted by: Kelsall Binet Architects
Scheme: City Centre
Heritage Listing: State Register of Heritage Places and Level 1A – City's MHI
Existing Landuse: Place of Worship/Community Purpose
Use Class: Place of Worship/Community Purpose
Use Permissibility: P & P



EXECUTIVE SUMMARY

This application is for an extension of time for the demolition of the parish hall (know as St Patrick's Memorial Hall).

The original development application was approved on 15 January 2007. The approval letter states that works have to substantially commence within two years.

The application is presented before Planning Services Committee as No. 47 Adelaide Street is listed on the Heritage Council of Western Australia's Register of Heritage Places.

The requirements of *LPP 1.1: Amendment to and Extension to the Term of Planning Approvals* are considered to be met and therefore the application is recommended for approval.

BACKGROUND

On 20 January 1999, the City granted planning consent for the restoration of St Patrick's Presbytery verandah (refer DA834/98).

On 10 April 2000, the City granted approval for landscaping (refer DA107/00).

On 19 June 2001, the City granted planning consent for an access ramp to St Patrick's Basilica (refer DA292/01).

On 15 January 2007, the City granted planning consent for the demolition of the parish hall (refer DA603/06) subject to two conditions:

1. *The existing building shall be documented prior to disturbance. This documentation shall consist of a photographic report which includes the following:*
 - (i) *A site plan showing the position, direction and number of each photograph taken.*
 - (ii) *Photographs and negatives showing all facades and important internal features. These shall be mounted on sheets of A4 size paper with the relevant number written under each photograph.*

One set of such records, including photographs, shall be submitted to Council and to the Heritage Council of Western Australia prior to the issue of a building licence.
2. *An interpretation proposal for the development history of the site shall be prepared and implemented to the satisfaction of the Heritage Council of Western Australia.*

The approval letter also states that works have to substantially commence within two years. No work has commenced on site to date.

On 8 October 2008, the City received an application for a single storey Community Purpose building addition to this site (see DA531/08 on this agenda), which requires the demolition of the Memorial Hall.

DETAILS

The applicant is requesting an extension of time to the development application because of the likelihood of a demolition contractor not being secured in time for substantial demolition to commence within the two year time frame.

STATUTORY AND POLICY ASSESSMENT

Clause 10.5.2 of the City's Local Planning Scheme No. 4 (LPS4) states that a written request may be made to the Council for an extension of the term of planning approval at any time prior to the expiry of the approval period.

The City's local planning policy *LPP 1.1: Amendment to and Extension to the Term of Planning Approvals* outlines the manner in which the City will deal with requests for the extension to the term of planning approvals.

Clause 3.1 of the policy states that where an extension is granted, a period of up to a further two years can be granted.

Clause 3.2 outlines that for such a request, Council may have regard to the following factors:

- (a) whether the Scheme or a relevant planning policy has changed in a material way since the planning approval was granted;*
- (b) whether in granting the planning approval, a discretion was exercised in relation to the Scheme or policy requirements; and*
- (c) whether a material change has occurred to either the site to which the planning approval relates or the surrounding locality since the planning approval was granted.*

CONSULTATION

The original application was referred to the City's Heritage Planner, the Heritage and Conservation Professionals and the Heritage Council of Western Australia, all of whom supported the application. Furthermore, the application was advertised to neighbouring properties but no submissions were received.

No further consultation was required to take place under this application for an extension of time.

PLANNING COMMENT

The three components of Policy LPP 1.1 will each be assessed below.

- (a) whether the Scheme or a relevant planning policy has changed in a material way since the planning approval was granted*

The original application was assessed under the provisions of the City's former Town Planning Scheme No. 3 (TPS3), which made specific reference to the manner in which the Council can treat a demolition application.

The current Local Planning Scheme No. 4 confirms that development includes demolition but does not make any specific reference to the assessment of an application for demolition. It is therefore not considered that there has been any material change in the Scheme that affects the assessment of this application. No changes have been made to any of the relevant City of Fremantle policies since the date that the application was approved. As such, provision (a) above is considered to be met.

(b) whether in granting the planning approval, a discretion was exercised in relation to the Scheme or policy requirements

A full heritage assessment was undertaken as part of the original application for demolition and the decision by the Council to approve the application did not go against the advice of any of the consulted parties. It is not considered that a discretion was exercised and therefore provision (b) above is considered to be met.

(c) whether a material change has occurred to either the site to which the planning approval relates or the surrounding locality since the planning approval was granted

It is not considered that there have been any material changes on site or within the immediate or wider locality that affect the acceptability of the demolition of the parish hall. As such, provision (c) above is considered to be met.

CONCLUSION

Upon assessment, the request for an extension to the term of planning approval DA603/06 is considered to satisfy the requirements of Clause 3.2 of the City's policy *LPP 1.1: Amendment to and Extension to the Term of Planning Approvals*. A time extension for the planning approval is therefore recommended for a period of two years.

It should be noted that the applicant has complied with the conditions imposed on DA367/06 and therefore it is not considered necessary to reimpose these conditions.

OFFICER'S RECOMMENDATION/COMMITTEE DECISION

MOVED: Mayor, Peter Tagliaferri

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the extension of the term of approval for a period not exceeding two years from the date 15 January 2009 for the Demolition of Parish Hall at No. 47 (Lots 4 & 5) Adelaide Street, Fremantle, subject to the same terms as stated on the Notice of Approval, reference DA367/06.

CARRIED: 5/0

For	Against
Mayor, Peter Tagliaferri Cr John Alberti Cr Robert Fittock Cr Donna Haney Cr Bill Massie	

EXECUTIVE SUMMARY

This application is before the Planning Services Committee for determination as it is proposed to demolish a building that is included on the City's Heritage List pursuant to Clause 7.1 of the City of Fremantle Local Planning Scheme 4 (LPS4).

Planning Approval is sought to demolish the existing single house, on the basis that it is in a dilapidated state and as such its heritage value is greatly diminished. A structural engineer's report has been submitted with the application which identifies a significant amount of work that is required to take place prior to the dwelling being suitable for habitation.

Irrespective of the neglected state of the dwelling, there is little evidence to suggest that the building is structurally unsound, and incapable of repair. Given this, and the fact that the dwelling has been identified for its heritage significance, the application is recommended for refusal.

BACKGROUND

No.38 Samson Street, White Gum Valley is zoned Residential - R25 and is located within the South Fremantle Local Planning Area as designated in Schedule 12 of LPS4.

The site is located on the northern side of Samson Street in the street block bounded by Edmund Street to the west, and Amherst Street to the east, and is surrounded by residential land uses. The site itself contains a small single dwelling and garage. The dwelling has not been lawfully occupied for a number of years, and in recent times has been used by squatters, which has resulted in some amenity issues for adjoining residents.

The site is included on the City's Heritage List pursuant to Clause 7.1 of LPS4, and is also on the City's Municipal Heritage Inventory (MHI) as a management category level 3 place due to the contribution to the streetscape, local area, and Fremantle as a collective whole.

At the ordinary Council meeting of 30 January 2008, Council considered a report regarding the state of the dwelling, and the amenity issues associated with the illegal occupants. Following consideration of the officer's advice, Council resolved as follows:

That Council:

- 1. Form the view that the buildings located at 38 Samson Street, White Gum Valley are neglected and dilapidated.*
- 2. Authorise the Chief Executive Officer to serve notice on the owner of the building requiring the repair of the buildings and bring its appearance into conformity with the general standard with the buildings in that locality.*
- 3. Inform the owner of the property that any works required to repair and restore the building will require an application for planning approval to be made under the provisions of Local Planning Scheme No. 4.*

Subsequent to this resolution, a notice was served on the property owner in accordance with Section 408 of the *Local Government (Miscellaneous Provisions) Act 1960*, and part 2 of Council's resolution above.

On 12 June 2008, the property owner exercised his right of appeal and submitted an application to the State Administrative Tribunal (SAT) for review of Council's decision. In the application the owner requested that the Tribunal change the Section 408 notice from one that requires restoration, to a notice to "take down" the dwelling, also under the provisions of Section 408.

Following an on site mediation with the presiding member of the Tribunal, orders were made requiring the owner to:

1. Secure the site
2. Submit a planning application for the demolition of the dwelling and outbuildings
3. Provide with the application a heritage report and an assessment from a structural engineer.

In addition to the orders made above, the Tribunal stayed the notice to allow the owner time to provide the required information.

DETAILS

On 15 October 2008, the City received an application for Planning Approval for the demolition of the dwelling and associated outbuildings on the site. The application was accompanied by a Heritage Report prepared by Ronald Bodycoat Architect (Attachment 1). A structural engineer's report was submitted on 1 December 2008 (Attachment 3) following a further order from the Tribunal.

The application is for the demolition of the dwelling and associated outbuildings only. The applicant has not submitted any development plans for the redevelopment of the site.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No. 4 (LPS4)

Clause 8.1 stipulates all development on land zoned and reserved under LPS4 requires the prior approval of the Council. A person must not commence or carry out any development without first having applied for and obtained the planning approval of the Council.

Amongst other things, LPS4 stipulates development includes the demolition of dwellings. It is duly noted it has previously been the practice of the Council to request replacement plans prior to the determination of demolition applications under the provisions of the former Town Planning Scheme No. 3. LPS4 was gazetted in March 2007 however and does not include provisions requiring replacement plans be submitted.

LPS4 Clause 1.6.1(f) states that one of the aims of LPS4 is to protect and conserve Fremantle's unique cultural heritage. In addition, Clause 4.2.1(a) of LPS4 states that development within the Residential zone shall –

- (i) *provide for residential uses at a range of densities with a variety of housing forms to meet the needs of different household types, while recognising the limitations on development necessary to protect local character.*
- (ii) *Safeguard and enhance the amenity of residential areas and ensure that development, including alterations and additions, are sympathetic with the character of the area,*
- (iii) *Encourage high standards of innovative housing design which recognise the need for privacy, energy efficient design and bulk and scale compatible with adjoining sites,*
- (iv) *Recognise the importance of traditional streetscape elements to existing and new development,*
- (v) *Conserve and enhance places of heritage significance the subject of or affected by the development, and*
- (vi) *Safeguard and enhance the amenity of residential areas by ensuring that land is compatible with the character of the area.*

The site is included on the City's Heritage List pursuant to Clause 7.1. The proposed development includes the full demolition of the existing buildings on the site.

Council Policies

The City of Fremantle policies of relevance to the subject application include *D.B.H1: Urban Design and Streetscape Guidelines* and *D.B.H13: Impact of Developments on Heritage Places Policy*.

CONSULTATION

Community

The application was required to be advertised under City of Fremantle policy *L.P.P1.3: Public Notification of Planning Proposals* as the application involves the demolition of a dwelling listed on the City's Heritage List. The application was advertised in accordance with Clause 9.4 of LPS4 via neighbour and precinct notification, a sign on site and an advert in the Fremantle Herald.

At the conclusion of the advertising period being 10 November 2008, two submissions had been received. Both of these submissions supported the demolition of the dwelling, citing the visual appearance of the dwelling, and the amenity, health, and safety issues associated with the use of the premises by squatters as reasons for its removal.

Heritage

As demolition of an existing single house is proposed, a heritage assessment has been commissioned from Palassis Architects. This report is attached, see Attachment 2. The conclusion of this report states:

38 Samson Street is a heritage-listed property that is located in an area that has a high proportion of heritage-listed places.

The dwelling, which dates from c1920, has cultural heritage value as one of the original worker's cottages in the locality. It is a component of a largely intact historic streetscape dating from the early years of the twentieth century.

It is in a very poor state of repair and shows evidence of long-term neglect. It requires substantial work to improve its streetscape presentation including replacement of all roof cladding and rainwater goods, repair and replacement of timber joinery and investigation into the safety of the fibre-cement cladding.

In its current state, the contribution of 38 Samson Street to the streetscape is diminished through its poor presentation. However, it retains a positive contribution to the historic character of the streetscape through its single storey gabled roof form, its weatherboard and corrugated iron claddings and its timberframed front verandah and small setback. Its demolition would represent an incremental loss of cultural heritage values of the streetscape.

The garage, which is a later addition and visually intrudes on the streetscape, should be demolished.

The applicant has also provided a heritage assessment from an appropriately qualified expert. This report is also attached, see Attachment 1. This report assesses the significance of the place in accordance with the Burra Charter, and summarises as follows:

House 38 Samson Street, a single-storey timber-framed and weatherboard cottage, constructed in the early 1920s in one of the Inter-War Federation styles, has little if any cultural heritage significance for the following reasons:

The place retains the original form and elements as viewed from the street, but has lost its aesthetic significance as a consequence of deterioration, vandalism and change;

The place demonstrates the original residential subdivision of the locality and one of the housing types common to the area; for these reasons the place has some historical significance.

The heritage architect has also included a separate letter providing a commentary on the heritage listing of the site, and contends that the place "...does not contribute positively to the streetscape but detracts from the streetscape; demolition of the place would not impact adversely on the streetscape in the immediate locality where the residential development is diverse.

Structural Engineer

In support of the application, the applicant has submitted a structural report prepared by Airey Taylor Consulting Engineers. The report in its entirety is included as Attachment 3, and the conclusion is provided below:

3.1 The garage as it exists and as it was constructed never complied with the Uniform general By-Law requirements for structural adequacy nor does it now comply even with the modifications in the plane of the wall plates. The garage is structurally derelict and non-compliant with any Codes past or present.

- 3.2 *The verandah construction along the south side of the building has columns which are adequate for size and the verandah edge beam is structurally adequate. The roof construction is comprehensively inadequate and failed to satisfy the relevant minimum requirements for structural adequacy either at the time that it was constructed or presently.*
- 3.3 *The house relies for footings on stumps which are very short with no significant gap between bearers, joists and ground so that access beneath the floor is not available. Nevertheless, the advanced degradation of the floor shape and walls leaves no doubt that the stumps, as they presently exist, are comprehensively inadequate to satisfy any minimum standards of construction. To access the degraded stumps would require the flooring to be removed so that new stumps could be installed and the walls restored to horizontality and any other floor elements now inadequate replaced. It would then be necessary to replace the flooring which would be seriously damaged by the removal process. It is likely that replacement with new flooring would follow on replacement of the sub-structure with new stumps, plates, joists and bearers.*
- 3.4 *The wall cladding and ceiling to all of the internal rooms is asbestos of the old type, much of which is broken. This material is a health hazard. The external cladding to the external walls is also asbestos, much of which is broken which is also a health hazard.*
- 3.5 *The roof construction timber framing was inaccessible so that it was unable to be inspected. The sagging of roof in various areas strongly suggests that at least local failure has initiated and at worst the roof construction is unfit for purpose.*
- 3.6 *The roof cladding is rusted to the point that ingress of water is occurring, damaging the interior of the asbestos ceiling which takes some damaging.*
- 3.7 *The building is assessed structurally as failing to comply with the requirements of the Uniform General By-Laws which prevailed prior to the era of the BCA. It does not comply with BCA requirements for structural adequacy either. Much of the installation of structure has degraded to the point where collapse has initiated or is incipient. The building is unfit for human habitation.*

4. Recommendation

- 4.1 *That the building be written off and demolished and replaced with new construction complying with the requirements of the BCA.*

PLANNING COMMENT

In considering this application, Council must form a view as to whether the heritage significance of the site is such that the house must be retained, and given its current state, whether the house is capable of restoration without detracting from the heritage significance of the place.

LPS4 and Council Policy

The proposed demolition is not considered to be consistent with the objectives of the Residential zone which include the requirement to '*conserve and enhance places of heritage significance*' and '*recognise the importance of traditional streetscape elements to existing and new development.*'

Furthermore, the objective of City of Fremantle policy *D.B.H1: Urban Design and Streetscape Guidelines* includes the requirement to '*conserve and enhance areas of architectural or historic character whilst encouraging harmonious development with the existing authentic character and appearance of the traditional residential areas of Fremantle.*'

The demolition of the dwelling would not meet any of the Scheme or policy objectives outlined above.

It is noted that having regard to the sites density coding, there is adequate space to the rear of the dwelling and the ability for a vehicle access leg to be provided to the north of the existing dwelling, that the retention of the existing dwelling does not unduly restrict the development potential of the site. Consequently, it is considered that the demolition of the existing house is not required for further development of the subject site.

Heritage

As outlined within the heritage report provided by Palassis Architects, the subject site is considered to be of significant cultural heritage value in terms of its contribution to the Samson Street streetscape and the surrounding area. The existing dwelling also represents an example of the construction that occurred during the inter-war period which was once the predominant house design and scale of the area.

The applicant's heritage report also identifies the place as having some heritage significance through its historical value, and its 'representativeness'. However, the report contends that any heritage significance has been substantially lessened as a result of the deterioration of the condition of the house, and as such, no longer contributes positively to the streetscape or the locality.

Based on the Palassis Architects heritage report, it can be concluded that the site does have some heritage significance, with the condition of the dwelling being the determining factor as to the level of that significance.

The applicant has also submitted a separate letter from the heritage expert who undertook the assessment questioning the process in which the dwelling was originally identified as having heritage significance, and how the site came to be included on the City's Heritage List. From a planning perspective, LPS4 clearly contemplates that items on the list do have cultural heritage significance and are worthy of conservation. The fact that the site is listed on the Heritage List is a relevant consideration in the exercise of planning discretion.

The manner in which the property was identified and included on the list is not a relevant consideration for the purpose of this application.

Nevertheless, Council does have the ability to find that an item listed under Clause 7.1.1 of LPS4 does not, in fact, have cultural heritage value or sufficient cultural heritage value to warrant its retention.

Condition of the Dwelling

It is apparent from the exterior appearance and photos of the interior that the building is in a neglected and dilapidated state. The exterior of the dwelling is covered in graffiti, the verandah and gutters are deteriorated, the garage has questionable structural integrity, and the open areas are overgrown and unkempt. In addition, the interior of the dwelling has suffered substantial damage to the non structural elements, most likely as a result of the squatters that occupy the dwelling on occasion.

Despite the dilapidated condition of the dwelling, it is considered that the site does still have heritage value, and it is only through its neglect that the value has been lessened.

Both of the heritage reports submitted identify the roof cladding, rainwater goods, timber joinery, verandah posts and balustrades as being in particularly poor condition. All of these identified elements are non-structural in nature (other than perhaps the verandah posts), and are capable of either repair or replacement in a manner that does not lessen the heritage value of the place.

Contrary to both heritage reports, the engineer's report states that the verandah columns and edge beam are structurally sound. The engineer's report discusses in some detail the condition of the stumps, bearers and floor joists, and points out that the house will need to be re-stumped, and joists and bearers replaced, prior to being capable of habitation. The report also highlights the presence of broken asbestos in the walls and ceiling that is currently a health hazard, and questions the quality of the roof structure.

Whilst there is undoubtedly some considerable work required to restore the dwelling to a habitable condition, a number of the elements highlighted in the engineer's report relate to non-structural components of the building such as wall and roof cladding, and the garage which is a stand alone structure which is not identified as having any recognised heritage significance in its own right. All of these elements are capable of being repaired or replaced without necessarily detracting from the heritage significance of the place. Though there may be a considerable cost involved in restoring the dwelling, this is not a valid planning consideration and should not form the sole basis for making this decision.

Submissions

Both of the submissions received indicate support for the demolition on the basis of the amenity impacts that are occurring as a result of the present state of the site.

Whilst there are undoubtedly some significant amenity impacts on adjoining properties at present, this does not necessarily mean that the house should be demolished. The restoration of the dwelling to a habitable condition and subsequent occupation would have the same net effect on the amenity of adjoining properties as the demolition and construction of a replacement dwelling. However the restoration of the dwelling would allow the retention of a building of cultural heritage significance that contributes to the historical aspects of the streetscape and the locality.

Section 408 Notice and SAT Proceedings

As previously stated, the decision of the Council to serve a Section 408 notice to restore the building is currently under review with the State Administrative Tribunal. The notice is currently “stayed” by order of the Tribunal meaning that the notice will not come into effect until such times as the town planning issues around this site are resolved.

Should Council resolve to refuse this application, and any subsequent appeal against Council’s decision is dismissed, the notice will again take effect and compel the owner to restore the dwelling.

Should Council, or on appeal to SAT, resolve to approve the demolition application, the notice will automatically become redundant, and will be withdrawn by the Tribunal

Conclusion

This application for demolition is recommended for refusal on the basis that it does not meet the residential objectives of LPS4.

While the condition of the building is poor, the parts of the building identified in the heritage reports that are most in need of repair are predominantly cosmetic, and not structural in nature. Those areas identified in the engineer’s report as requiring repair or replacement are more structural in nature, but still capable of being repaired or replaced without any loss of heritage value. Furthermore, it is considered that a deliberate lack of maintenance should not form the basis for determining whether a place has cultural heritage significance, as this would likely create an undesirable precedent for other owners of heritage listed properties.

Council, through its resolution of 30 January 2008, has previously indicated its intention to have the dwelling restored to a habitable state. For this reason, and the fact that the proposed demolition would be contrary to the objectives of LPS4, it is recommended that the application be refused.

OFFICER'S RECOMMENDATION

MOVED: Mayor, Peter Tagliaferri

That the application be REFUSED under the Metropolitan Regional Scheme and Local Planning Scheme No. 4 for the Demolition of the Existing Single House at No. 38 (Lot 645) Samson Street, White Gum Valley for the following reasons:

1. The proposal is contrary to the objectives of the Residential zone set out within Local Planning Scheme No. 4 which aim to conserve and enhance places of heritage significance and recognise the importance of traditional streetscape elements to existing and new development.

Advice Note

- (i) The demolition of the existing garage may be supported by the City given its lack of structural integrity and minimal contribution to the cultural heritage values of the place, subject to an application being received.

LOST: 1/4

For	Against
Cr Donna Haney	Mayor, Peter Tagliaferri Cr John Alberti Cr Robert Fittock Cr Bill Massie

Mayor, Peter Tagliaferri moved the following alternative recommendation:

COMMITTEE DECISION

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Demolition of the Existing Single House at No. 38 (Lot 645) Samson Street, White Gum Valley.

CARRIED: 4/1

For	Against
Mayor, Peter Tagliaferri Cr John Alberti Cr Robert Fittock Cr Bill Massie	Cr Donna Haney

REASONS FOR CHANGE TO OFFICER'S RECOMMENDATION

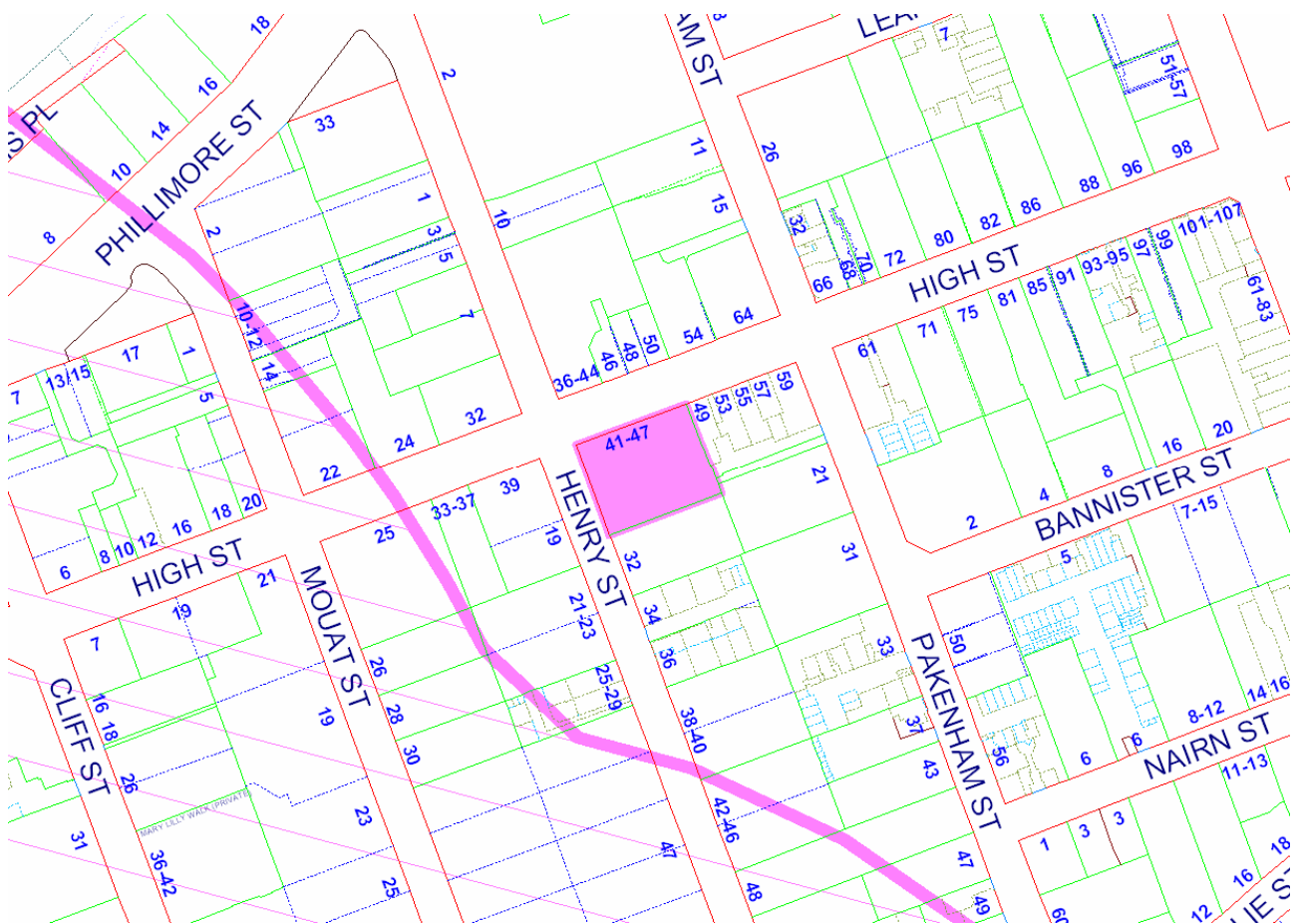
The dwelling is considered to be structurally unsound and therefore demolition is appropriate.

The above item is referred to the Ordinary Meeting of Council for determination in accordance with 1.1 or 2.1 of the City of Fremantle Delegated Authority Register which requires that at least 5 members of the committee vote in favour of the Committee Recommendation in order to exercise its delegation.

Mayor, Peter Tagliaferri moved en bloc recommendations numbered PSC0901-344, PSC0901-348, PSC0901-350.

PSC0901-344 HIGH STREET NO. 41 (LOT 700) FREMANTLE - INSTALLATION OF GATE TO BALCONY - (BC DA598/08)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Responsible Officer: Manager Development Services
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: Nil
Attachments: Development Plans
 Heritage Council of WA comment
Date Received: 6 November 2008
Owner Name: City of Fremantle
Submitted by: City of Fremantle
Scheme: City Centre
Heritage Listing: MHI Level 1A
Existing Landuse: Office
Use Class: Office
Use Permissibility: P



EXECUTIVE SUMMARY

The applicant is seeking planning approval for the installation of a gate to the rear balcony at No. 41 High Street, Fremantle.

The application is presented before the Planning Services Committee as the subject site is listed on the City's Municipal Heritage Inventory as a management category Level 1A.

The proposed development satisfies the relevant requirements of the City's LPS4, *Impact of Development on Heritage Places Policy and Fremantle West End Conservation Policy*. The application has been assessed by the Heritage Council of Western Australia and the City's heritage staff and is supported on heritage grounds.

The application is recommended for conditional approval.

BACKGROUND

The subject site (No. 41 High Street) is part of the former Union Stores Building – Nos 41–47 High Street, Fremantle. The subject site comprises a floor space of approximately 157m².

The site is zoned City Centre and is located within Sub Area 1 – West End of the City Centre Local Planning Area as described in Schedule 12 of the City's Local Planning Scheme No.4. The site is listed on the City's Municipal Heritage Inventory (MHI) as a Management Category Level 1A and is listed on the City's Heritage List. The site is also listed on the Heritage Council of Western Australia's Register of Heritage Places.

DETAILS

The application is for a security type gate to be installed at the top of the stairway at the rear of the building. The gate is to be of wooden construction to match the existing verandah. The applicant has provided documentation detailing numerous incidences since April 2008 where the City's rangers and police have needed to respond to complaints of unauthorised access to the balcony. The proposed security gate is proposed as a necessary measure to address this on-going issue.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No.4

Clause 8.1 of the City's LPS4 states that all development on land zoned and reserved under the Scheme requires the prior approval of the Council.

Council Policies

The following City policies are applicable to the current development application:

- *D.B.H13 Impact of Development on Heritage Places Policy*

- D.G.F14 Fremantle West End Conservation Policy

CONSULTATION

Community

The application was required to be advertised in accordance with Clause 9.4 of the LPS4 and the City's LPP1.3: *Public Notification of Planning Proposals* as the application involves development on a site listed on the Register of Heritage Places under the *Heritage of Western Australia Act 1990*. At the conclusion of the advertising period, being 4 December 2008, the City had received no submissions.

Heritage

The High Street buildings (Nos 41 – 47) are listed on the City's Municipal Heritage Inventory as a Management Category Level 1A as well as being located within the West End Conservation Area.

The development application was referred to the Heritage Council of Western Australia for assessment and comment. The comments are as follows:

'A Conservation Officer, with delegated authority from the Heritage Council, has assessed the development referral in the context of the identified heritage significance of the place. It is noted that the Heritage Council's register documentation describes the rear two storey verandah as having been constructed in 1985, in keeping with the original design. We confirm that the proposed works are supported subject to the following condition:

- *Any fixings required for the post and beam adjacent to the rear wall should be undertaken in a manner which minimises damage to the original brickwork and is reversible if the gate is removed at a future date.'*

The application was also assessed by the City as follows:

'UNION STORES BUILDING 41-47 High Street is adopted on the Heritage Council of WA's Register of Heritage Places and included on the City of Fremantle's Heritage List. The place is also included within the West End Conservation Area.

A site visit was undertaken to assess the proposed plans for the construction of a gate and balusters to the rear verandah with the heritage significance of the place. It has been determined from the documentary evidence as well as the physical inspection that the rear verandah is not original. In assessing the compatibility of the proposal in the context of the heritage significance of the place it is considered that the proposal would not have a detrimental impact on the place. The design and materials are intended to match the existing verandah and will not negatively impact on any of the original fabric of the place.

It is therefore considered that the proposed gate is acceptable and can be supported on heritage grounds.'

PLANNING COMMENT

Council Policies

D.B.H13 Impact of Development on Heritage Places Policy

The City's *Impact of Development on Heritage Places Policy* is to ensure that Council has regard, among other things, to heritage issues when determining applications, particularly with respect to impacts of proposed developments on heritage places. The subject site is listed on the City's MHI as a Level 1A. In accordance with the policy, a heritage impact statement was prepared by the City's heritage staff (see above). The application is supported on heritage grounds.

D.G.F14 Fremantle West End Conservation Area Policy

The subject site is located within Zone 2 – West End of the City's *Fremantle West End Conservation Area*.

The proposed development is considered acceptable in terms of the design, materials, colours and finish of the building work. The proposed design and materials of the gate are intended to match the existing balcony and the gate is not to be attached to the original fabric of building. The proposed development is not anticipated to impact on the heritage characteristics of the building and therefore satisfies the requirements of the City's policy.

CONCLUSION

The proposed development satisfies the City's *Impact of Development on Heritage Places Policy* and *Fremantle West End Conservation Policy*. The proposed development was assessed by the Heritage Council of Western Australia and the City and is supported on heritage grounds.

Accordingly the application is recommended for conditional approval.

OFFICER'S RECOMMENDATION/COUNCIL DECISION

That the application be **APPROVED** under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Installation of Gate at No. 41 (Lot 700) High Street, Fremantle subject to the following condition(s):

1. The development hereby permitted shall take place in accordance with the approved plans dated 6 November 2008.
2. The works hereby approved shall be undertaken in a manner which does not irreparably damage any original or rare fabric of the building. Should the works subsequently be removed, any damage shall be rectified to the satisfaction of the City of Fremantle.
3. Any fixings required for the post and beam adjacent to the rear wall should be undertaken in a manner which minimises damage to the original brickwork and is reversible if the gate is removed at a future date.

Advisory Notes:

- (i) This approval does not authorise the commencement of any building/demolition works. A building/demolition licence must be obtained prior to the commencement of construction works. Please contact Building Services on 9432 9778.

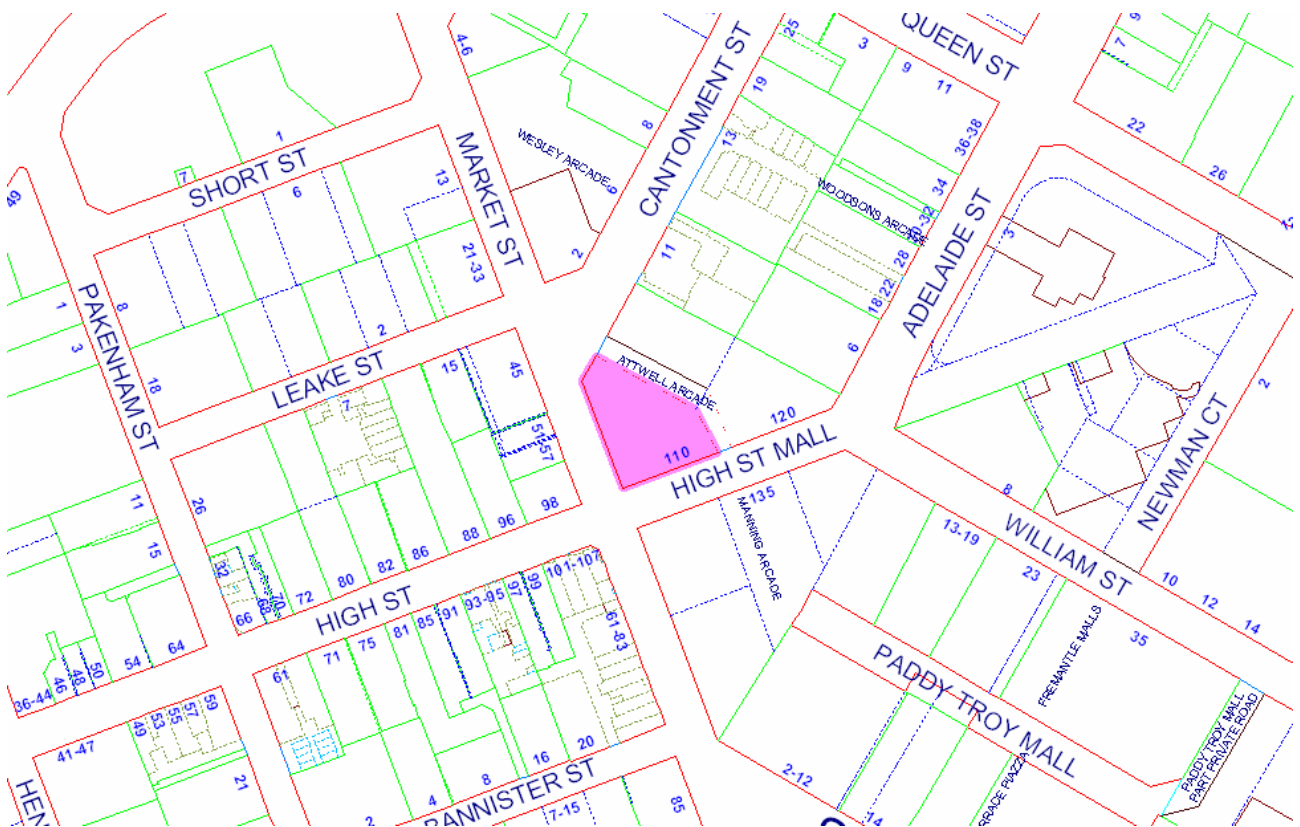
CARRIED: 5/0

For	Against
Mayor, Peter Tagliaferri Cr John Alberti Cr Robert Fittock Cr Donna Haney Cr Bill Massie	

Mayor, Peter Tagliaferri moved en bloc recommendations numbered PSC0901-344, PSC0901-348, PSC0901-350.

PSC0901-348 HIGH STREET, NO. 110 (LOT 500) FREMANTLE - RETROSPECTIVE APPROVAL FOR A CHANGE OF USE TO RESTAURANT, ALTERATIONS TO SHOP FRONT AND SIGNAGE (AT DA363/08)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Responsible Officer: Manager Development Services
Actioning Officer: Senior Planning Officer
Decision Making Level: Planning Services Committee
Attachments: Revised development plans received 20 November 2008
Date Received: Application received 11 July 2008
Owner Name: Hanny Properties PTY LTD
Submitted by: Daniel Leppard
Scheme: City Centre
Heritage Listing: Within West End Conservation Area
Existing Landuse: Restaurant
Use Class: Restaurant
Use Permissibility: A



EXECUTIVE SUMMARY

The application is referred to the Planning Services Committee for determination as the application has previously been considered by the committee.

This retrospective application is for a shop front alterations and signage and an unauthorised change of use to restaurant.

This application was considered at the Planning Services Committee on 1 October 2008. The item was deferred at the request of the applicant to the next appropriate Planning Services Committee to address issues relating to the application for the alterations to the shop front.

The applicant submitted amended development plans following consultation with the City's heritage staff regarding the treatment of the shopfront.

The site is within the West End Conservation Area which is included on the City of Fremantle's Heritage List as a Heritage Area. The change of use, alterations to the shopfront and signage are all considered to satisfy the requirements of the City's Local Planning Scheme No. 4 and planning policy D.G.F14 - Fremantle West End Conservation Area Policy.

The application is recommended for approval.

BACKGROUND

The subject site is located at No. 110 High Street, Fremantle on the eastern side of Market Street, in the city block bounded by High and Cantonment Streets, Fremantle. The site was previously used as a bakery.

The lot is zoned 'City Centre' under the provisions of the City of Fremantle Local Planning Scheme 4 (LPS4). The site is not included on the City's Heritage List but is within the West End Conservation Area which is a Heritage Area under LPS4.

This application was considered at the Planning Services Committee on 1 October 2008. Upon the request of the applicant, the item was deferred to the next appropriate Planning Services Committee to address issues relating to the application for the alterations to the shop front.

The applicant has consulted with the City's heritage staff regarding the shopfront treatment and subsequently submitted amended shopfront plans on 20 November 2008.

DETAILS

Development Approval is sought for an unauthorised change of use to a Restaurant and retrospective approval for alterations and signage to the building at 106 - 110 (Shop 32 Market Street) High Street, Fremantle.

The signage consists of two main signs. A 1500mm x 400mm under awning sign and a 2000mm x 550mm verandah fascia sign. The front wall of the shop has been painted with the business logo.

The amended development plans denote that the existing white aluminium windows and doors are to be painted 'Taubmans Derby Brown Exterior Gloss'.

STATUTORY AND POLICY ASSESSMENT

LPS4

Use

The Restaurant land use is classified as an 'A' use under LPS4. An 'A' classification means that *'the use is not permitted unless the Council has exercised its discretion and has granted planning approval after giving special notice in accordance with clause 9.4.'*

The change of use was advertised in accordance with the City's *LPP1.3 Public Notification of Planning Proposals Policy*.

Car Parking

Pursuant to the requirements of LPS4, nine car parking bays are required to be provided on-site for the Restaurant use (1 bay per 5m² of dining area). No on-site parking is provided therefore an assessment against Clause 5.7.3(a) of LPS4 is required. This clause states:

Subject to the requirements of Schedule 12, waive or reduce the standard parking requirement specified in Table 3 subject to the applicant satisfactorily justifying a reduction due to one or more of the following –

- (i) the availability of car parking in the locality including street parking,*
- (ii) the availability of public transport in the locality,*
- (iii) any reduction in car parking demand due to the sharing of car spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces,*
- (iv) any car parking deficiency or surplus associated with the existing use of the land,*
- (v) legal arrangements have been made in accordance with clause 5.7.4 for the parking or shared use of parking areas which are in the opinion of the Council satisfactory,*
- (vi) any credit which should be allowed for a car parking demand deemed to have been provided in association with a use that existed before the change of parking requirement,*
- (vi) the proposal involves the restoration of a heritage building or retention of a tree or trees worthy of preservation,*
- (viii) any other relevant considerations.*

Internal Alterations

The application also specifies internal alterations that have been undertaken to the subject site. However as the subject site is not listed on the City's Heritage List or State Heritage Register, under Clause 8.2 of LPS4 internal alterations are permitted development.

The subject site is within a Heritage Area under LPS4 however this does not mean the subject site is listed on the City's Heritage List. As a result, the internal alterations to the subject site will not be assessed as part of this report.

Council Policies

D.B.H6 - Signs and Hoardings Policy

This policy provides the following criteria against which to assess signage applications:

The Council will endeavour to avoid the impairment of the amenity of the locality which may be caused where:

- 1. a sign of such scale, prominence, obtrusiveness or character as to be incongruous with the surrounding land uses;*
- 2. the sign adds to the danger of driver distraction;*
- 3. the sign adds to the visual clutter of the locality;*
- 4. numerous other signs exist on the site;*
- 5. the sign, when viewed from a position where the sign would be legible, would obscure existing signs, information, sight lines or architectural features, or would itself be obscured.*

D.G.F14 – West End Conservation Area Policy

The objective of this policy is to preserve and enhance the historic built environment of Fremantle ensuring that all areas of particular architectural, historic and townscape importance are retained.

D.B.H13 - Impact of Developments on Heritage Places

The subject site is located within the West End Conservation Area which is a Heritage Area under LPS4. For the assessment of applications for properties listed on the Heritage List or within Heritage Areas, this policy states:

In determining any application involving heritage places (included on MHI and/or assessed from time to time by Council as being of cultural heritage significance), the Council shall have regard to:

- the need for protection, conservation and heritage interpretation of an existing place;*
- the likely impact of the proposed development on a place's heritage values and;*
- all other relevant considerations such as zoning, residential amenity and/or environmental issues specified by the Scheme and outlined in the relevant policies of the Council.*

CONSULTATION

Community

Pursuant to Clause 9.4 of LPS4, the application was required to be advertised. At the conclusion of the advertising period, being 4 August 2008, the City had received no submissions.

Heritage

The following comments were provided by the City's heritage staff and included within the previous Planning Services Committee report relating to the application:

COMMERCIAL BUILDING, 106 - 110 High St (shop 32 Market Street) – Heritage Comments

COMMERCIAL BUILDING, 106 - 110 High St is included on the draft Municipal Heritage Inventory and is situated within the West End Conservation Area which is included on the City's Heritage List. The statement of significance for the place states that it is a modest example of a commercial building dating from the first decades of the twentieth century that forms part of a group of similar places and makes a contribution to the Fremantle Town Centre streetscape.

An on site inspection and subsequent meeting was undertaken to assess the retrospective application for alterations to shop 32 at 106-110 High Street (currently café and former bread shop). The shop which is a single storey rendered stone building addresses and is situated on the eastern side of Market Street. The alterations include replacement of the shop front, signage and partial demolition of an internal wall at the rear of the original shop.

The shop front has been replaced with white metal framed bi folding doors and windows. Despite the previous shop front was not being the original, it is considered that the replacement shop front has a greater negative impact and is not sympathetic to the significance of the building or to the streetscape. It is noted that there are currently bi folding windows which are situated within the Market Street streetscape, these are timber framed and comprise of windows only and do not include the entrance, and therefore the visual impact is lessened. As many of the shop fronts on High Street and Market Street are not original and they are gradually being replaced or upgraded the City is encouraging recessed entrances, tiling to dado height and predominantly glazed fronts with narrow metal framing.

The signage is considered subtle and appropriate and does not negatively impact on the streetscape.

The openings which have been created internally and at the rear of the original shop do not appear to have been undertaken with consideration to the integrity of the place. The doorway to the rear portion of the shop (later additions) is acceptable as there was an original doorway in this space, however the smaller/window type opening has resulted in the loss of some of the original limestone. Also, the work on these openings does not appear to have been professionally completed.

It is understood that these punctuations have been created to allow more access and visibility through to the rear of the portion of the shop and openings in principle can be considered acceptable, however the work should be undertaken so as not to impact on the integrity and aesthetic values of the place.

Overall, the signage is acceptable and can be supported, however the external shop front and the door and window openings to the rear of the original shop wall are not considered appropriate on heritage grounds.

The amended development plans for the shopfront have been assessed by the City's heritage staff who consider the proposal to paint the existing white joinery a dark brown colour to be a positive amendment to the application.

PLANNING COMMENT

Use

The Restaurant use requires the discretion of Council to approve. In order to assess its suitability, the objectives for the City Centre zone as outlined within Clause 4.2(b) of LPS4 are set out below:

Development within the city centre shall –

- (i) provide for a full range of shopping, office, administrative, social, recreation, entertainment and community services, consistent with the region-serving role of the centre and including residential uses, and*
- (ii) comply with the objectives of local planning area 1 of schedule 12,*
- (iii) conserve places of heritage significance the subject of or affected by development.*

The Restaurant use is a shopping, social and recreational service to the community. There are no relevant objectives within Schedule 12 relating to the use and the proposed use is not considered to impact the heritage significance of the area.

The restaurant is within the City Centre Zone where there is a mix of uses including a number of restaurants. It is considered the restaurant will not create any significant impacts that will result in the amenity of near by properties being adversely affected. As a result, the proposed Restaurant use is supported.

Parking

No parking is available on site for the proposed Restaurant use. This is consistent with the previous use of the site as a Bakery. It is recognised that the proposed Restaurant use does not give rise to any additional parking requirements over and above the demand for parking associated with the present approved use.

With reference to Clause 5.7.3 of LPS4 which allows Council to relax or waive car parking requirements, the shortfall of parking is supported given the availability of off-site car parking in the locality and public transport, and as the current use does not exacerbate any parking issues.

Council does have the ability to require cash-in-lieu of car parking for the subject site.

However, it is not recommended in this instance given a shortfall in parking already existing associated with the previous use and this shortfall not being exacerbated by the proposed use.

Heritage

In relation to alterations to existing buildings, amongst its provisions, *D.G.F14: Fremantle West End Conservation Area Policy* states:

Any new openings required should either be achieved by reconstructing former openings if possible, or done in a way sympathetic to the character of the space. New openings/infills should be clearly identifiable by a different colour of mortar or recessed face in relation to surrounds or similar treatment. Any evidence of former stages of development of the place, should be retained and revealed.

In addition it states:

New buildings and works should always be respectful and compatible with the existing context in which a new building is to be constructed and that new buildings and works should be interpretative of the, more closely defined context, that is adjacent buildings and sites.

The subject building was previously occupied by a bakery and its shop front consisted of aluminium framed glazing which was not part of the buildings original fabric. Therefore, it is not considered that the subject alterations (new shop front) have made the shop front worse in terms of its interaction into the West End Conservation Area. However, it is considered that if the applicant had negotiated with the City prior to undertaking the most recent alterations that an outcome could have been achieved which was more consistent with the provisions of the West End Conservation Area Policy.

Upon consultation with the City's heritage staff, the applicant has submitted amended development plans detailing that the existing white aluminium joinery is to be painted a dark brown colour (Taubmans Darby Brown Exterior Gloss) which will reduce the contrast between the joinery and external wall colour. This is considered by the City's heritage staff to be acceptable on heritage grounds.

The shop front in its current form and within its context is not considered consistent with the provisions of the City's *D.G.F14: Fremantle West End Conservation Area* and *D.B.H13: Impact of Developments on Heritage Places* policies pertaining to alterations. However due to the shopfront prior to the works being undertaken being of similar nature to that now existing on site it is considered that the City can support the current application.

Signage

With consideration to Council policies *D.B.H6 - Signs and Hoardings* and *D.G.F14 – West End Conservation Area Policy* the proposed signage is considered to be in an appropriate colour and in a suitable location that does not diminish the visual amenity, heritage significance or character of the place.

The signage displays the name of the business, identifies the nature of the business and is attached to the building where the business takes place. The signage is considered to contribute to the urban environment as the signs' functions are to convey information to the public.

The signage is not incongruous with the surrounding land uses in terms of scale, prominence, obtrusiveness or character. The signage does not add to the danger of driver distraction nor add to the visual clutter of the locality and does not obscure existing signs, information, sight lines or architectural features.

Overall, the proposed signage is recommended for approval.

CONCLUSION

There are a number of matters Council has been asked to consider as part of this retrospective application. Namely, a change of use from Bakery to Restaurant, shop front alterations and signage.

The change of use and signage are supported given they will not adversely affect the amenity of the area or undermine the area's heritage conservation objectives.

The proposed shopfront alterations are supported under the City's relevant policies based upon the amended development plans received noting that the existing white joinery is to be painted so to reduce the contrast between the joinery and remainder of the shopfront. In addition, the shopfront design that previously existed prior to the undertaking of the works which are the subject of the current application has also been taken into account.

OFFICER'S RECOMMENDATION/COMMITTEE DECISION**MOVED: Mayor, Peter Tagliaferri**

That the application for the Change of Use to Restaurant, Signage and Alterations at No. 110 Shop 32 (Lot 500) Market Street, Fremantle be APPROVED under the Metropolitan Regional Scheme and Local Planning Scheme No. 4, subject to the following condition(s):

1. The development hereby permitted shall take place in accordance with the approved plans and information dated 11 July 2008 and 20 November 2008.
2. The signs hereby permitted shall not contain any flashing or moving light at any time.
3. Within 60 days of the date of the decision letter, the existing white joinery shall be painted using 'Taubmans Derby Brown Exterior Gloss' paint to the satisfaction of the Chief Executive Officer of the City of Fremantle.

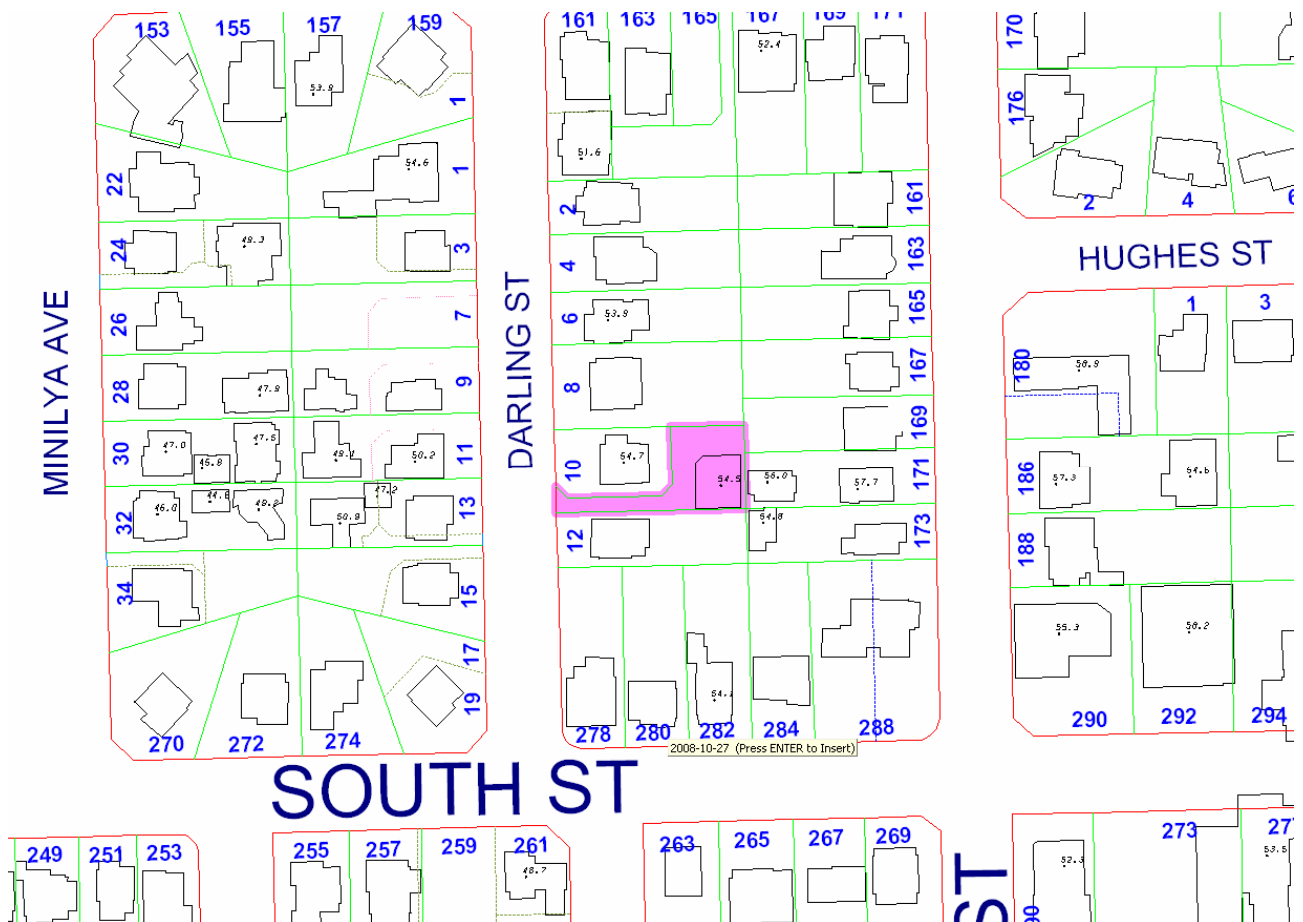
CARRIED: 5/0

For	Against
Mayor, Peter Tagliaferri Cr John Alberti Cr Robert Fittock Cr Donna Haney Cr Bill Massie	

Mayor, Peter Tagliaferri moved en bloc recommendations numbered PSC0901-344, PSC0901-348, PSC0901-350.

PSC0901-350 DARLING STREET NO. 10/A (LOT 361) WHITE GUM VALLEY - TWO STOREY ADDITION TO SINGLE HOUSE - (BC DA503/08)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Responsible Officer: Manager Development Services
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: Nil
Attachments: Development Plans
 Justifying submission from applicant
Date Received: 23 September 2008, Revised plans 24 November 2008
Owner Name: Ryan & Joanne Murphy
Submitted by: Modern Style Homes
Scheme: Residential R20/R25
Heritage Listing: Not Listed
Existing Land use: Single House
Use Class: Single House
Use Permissibility: P



EXECUTIVE SUMMARY

The application is presented before the Planning Services Committee as the City received submissions during the consultation period concerning various aspects of the development which cannot be resolved via conditions of planning approval.

The applicant is seeking Planning Approval for a second storey addition to an existing single house at No. 10/A Darling Street, White Gum Valley.

The proposed development satisfies the relevant requirements of the City's Local Planning Scheme No. 4 (LPS4) and the Residential Design Codes (R-Codes), including the performance criteria pertaining to boundary setbacks. The development also satisfies the objectives of the City's *Urban Design and Streetscape Guidelines*.

The application is recommended for conditional approval.

BACKGROUND

The subject site is approximately 585m² and is located on the eastern side of Darling Street, White Gum Valley. The site is orientated in an east – west direction and slopes downwards from the rear to the front by approximately 1.5 metres.

The site is zoned Residential R20/R25 and is located within the White Gum Valley Local Planning Area (White Gum Valley LPA) as described in Schedule 12 of LPS4. The site is not listed on the City's Heritage List or Municipal Heritage Inventory (MHI) nor is the site located within a heritage area.

Planning approval was granted under delegation on 4 May 2004 for a garage on the subject site (DA204/04). There was some uncertainty surrounding the legality of the planning approval as the garage encroached onto the adjoining property's land. However since that time, the owner of No. 10/A Darling Street has purchased and amalgamated a portion of land from No. 10 Darling Street, so the garage is now contained within the property boundaries of No. 10/A Darling Street.

DETAILS

The applicant submitted plans to the City on 23 September 2008 for proposed second storey additions to the existing dwelling on No. 10/A Darling Street. The application includes a request for upper level setback variations to the southern (side) and eastern (rear) boundaries. The applicant also provided written justification for the proposed variations from the Acceptable Development requirements of the R-Codes on 16 October 2008 (see Attachment 2).

The proposal includes the removal of the existing pitched roof, addition of a second storey with a flat roof with parapets on three sides.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No.4

The subject site is located within the White Gum Valley LPA as described in Schedule 12 of LPS4. In accordance with Schedule 12, the applicable height requirement for the White Gum Valley LPA is as per the R-Codes.

R-Codes

The proposed development satisfies the Acceptable Development requirements of the R-Codes with the exception of the upper floor setbacks to the southern and eastern boundaries. It should be noted that not meeting any acceptable development criteria, in and of itself, is not a sound basis on which to refuse or require modifications to a proposal. Instead, the proposal must be considered in the context of the relevant performance criteria.

The Acceptable Development provisions require the proposed development to be setback 1.6 metres from the southern boundary. The proposed setback is 1.5 metres representing a 0.1 metre variation.

The Acceptable Development provisions require the proposed development to be setback 1.9 metres from the eastern boundary. The proposed setback is 1.53 metres representing a 0.37 metre variation.

Council Policies

The proposed development has been assessed against the objectives of the City's *D.B.H1 Urban Design and Streetscape Guidelines*. Further discussion regarding this policy is contained within the 'Planning Comment' section of this report.

CONSULTATION

Community

The application was required to be advertised in accordance with Clause 9.4 of the LPS4 and the City's *LPP1.3 Public Notification of Planning Proposals Policy*, as the development proposed variations from the Acceptable Development requirements of the R-Codes. At the conclusion of the advertising period, being 13 October 2008, the City had received two submissions. The following issues were raised:

- *Reduced eastern boundary setback*
 - Blocking of western views
 - Impact upon direct sun access to building and outdoor living area.
- *Visual privacy*
 - Concerns about potential overlooking into adjoining southern property.

PLANNING COMMENT

Residential Design Codes 2008

Boundary Setbacks

The performance criteria of the R-Codes regarding boundary setbacks state:

'Buildings setback from boundaries other than street boundaries so as to:

- *provide adequate direct sun and ventilation to the building;*
- *ensure adequate direct sun and ventilation being available to adjoining properties;*
- *provide adequate direct sun to the building and appurtenant open spaces;*
- *assist with protection of access to direct sun for adjoining properties;*
- *assist in ameliorating the impacts of building bulk on adjoining properties; and*
- *assist in protecting privacy between adjoining properties.'*

The applicant has provided an assessment against the performance criteria of the R-Codes for the reduced southern and eastern setbacks (see Attachment 2).

Southern Boundary

The southern wall is adjacent to the side boundary of an extensive rear garden that is not regarded as the property's active outdoor living area. There are no buildings adjacent to the southern wall of the proposed development or in the immediate vicinity of the wall. The proposed development will not restrict sun or ventilation to buildings or appurtenant open spaces. The proposed setback from the southern boundary will continue to provide adequate sun and ventilation to the dwelling on the southern adjoining property as the dwelling is located toward the front of the lot and not adjacent to the proposed development.

The overall building height of the dwelling is less than what is permissible within a Residential zone, and as such, any potential impact by way of building bulk on the southern adjoining property is considered acceptable.

Whilst the proposed development will impact upon the access to direct sun to the rear garden area of the adjoining property, the overshadowing created is within the Acceptable Development requirements of the R-Codes regarding design for climate and will not affect any sensitive areas.

As there are no southern facing major openings or outdoor living spaces in the proposed addition, no impact on the privacy of the adjoining property will occur.

Overall, the proposed setback variation from 1.6m to 1.5m to the southern boundary is considered to satisfy the performance criteria of the R-Codes relating to boundary setbacks.

Eastern Boundary

The applicant is seeking a setback variation from 1.9m to 1.53m (a variation of 0.37m) to the eastern boundary.

The proposed development is adjacent to an existing single storey dwelling on the adjoining eastern boundary. The setback of the adjacent dwelling is approximately 1.5 metres from the lot boundary, thus making the distance between buildings 3 metres. This distance is considered sufficient to allow for adequate ventilation between the adjoining properties. The setback between dwellings is also considered sufficient to provide for sunlight access given the subject site's east-west orientation.

The adjoining property's outdoor living area is located on the northern side of the property and is shaded to a large extent by an existing mature tree located on the adjoining property. The northern facing outdoor living area will not be affected by overshadowing for the majority of daylight hours from the proposed addition. Whilst it is acknowledged that the proposed addition may impact by way of overshadowing on the direct sun access to this area during the late afternoon hours, it is considered that this impact is acceptable.

The ground level on the subject site is approximately 0.5 metres lower than the adjoining eastern property's ground level. The proposed eastern wall is 5.2 metres high and the roof is a flat skillion type construction. Given the difference in ground level, the wall height and style of roof construction, it is considered that the impact of the proposed addition by way of building bulk is relatively minor and therefore acceptable. Furthermore increasing the setback to that required by the Acceptable Development provisions of the R-Codes is not considered to alleviate any perceived impact by way of building bulk.

The proposed eastern wall does not contain any major openings or outdoor living areas that face towards the eastern adjoining property and therefore no impact of the adjoining property's privacy is anticipated.

Overall the proposed reduced setback of 1.53m (a reduction of 0.37m) from the eastern boundary is considered to satisfy the performance criteria of the R-Codes pertaining to boundary setbacks.

Council Policies

D.B.H1 Urban Design and Streetscape Guidelines

The proposed development satisfies the general objectives of the City's *Urban Design and Streetscape Guidelines* in terms of building alignment, orientation and mass. Whilst the development is not of a traditional form that is characteristic of the broader locality of Fremantle, the Guidelines offer Council the flexibility to approve alternative building forms and designs which are reflective of modern trends for new infill development at the rear of existing houses fronting the street. The proposed development will not significantly impact upon the streetscape, given its location on the rear lot, and is thus considered to be a complimentary, albeit alternative, contribution to the urban character of the locality.

Overall the proposed development is considered to adhere to the objectives of the City's Guidelines.

Submissions

Eastern boundary setback

The submitter raised concerns about the impact a reduced eastern boundary setback would have on the access to views from the master bedroom and direct sun access to the house and outdoor living area.

As previously discussed, the proposed eastern boundary setback is considered to satisfy the performance criteria of the R-Codes, in particular the direct sun access for both the dwelling and outdoor living areas of the adjoining property.

With regards to the submitter's concerns about access to views, it is acknowledged that the development will result in the loss of western views from the submitter's property. However should the development comply with the boundary setback as required by the Acceptable Development provisions of the R-Codes, the access to views from the adjoining property would be very marginally increased by the slightly greater setback. Furthermore the overall height of the flat skillion roof of the proposed addition is considered less than what would otherwise be expected of a two storey addition.

Visual Privacy

The proposed development complies with the Acceptable Development requirements of the R-Codes pertaining to visual privacy.

CONCLUSION

The proposed second storey addition to the existing single house satisfies the relevant requirements of the City's LPS4 and R-Codes, including the performance criteria regarding boundary setbacks. Furthermore the development satisfies the objectives of the City's *Urban Design and Streetscape Guidelines*. Accordingly the application is recommended for conditional approval.

OFFICER'S RECOMMENDATION/COMMITTEE DECISION

MOVED: Mayor, Peter Tagliaferri

That the application be APPROVED under the Metropolitan Regional Scheme and Local Planning Scheme No. 4 for a second storey Addition to an existing Single House at No. 10/A (Lot 361) Darling Street, White Gum Valley subject to the following condition(s):

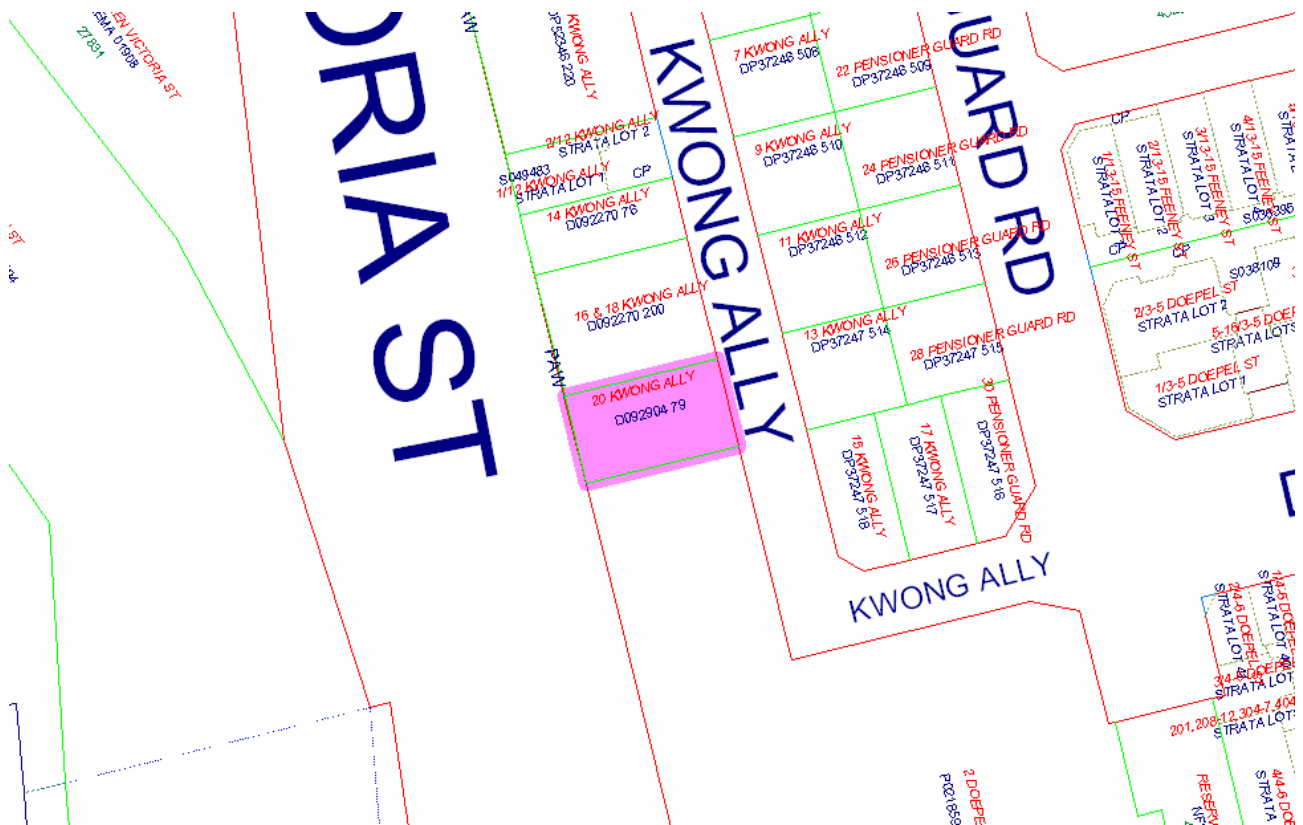
- 1. The development hereby permitted shall take place in accordance with the approved plans dated 24 November 2008.**
- 2. All storm water discharge shall be contained and disposed of on-site.**

CARRIED: 5/0

For	Against
Mayor, Peter Tagliaferri Cr John Alberti Cr Robert Fittock Cr Donna Haney Cr Bill Massie	

PSC0901-349 KWONG ALLEY, NO. 20 (LOT 79) NORTH FREMANTLE - EXTENSION TO THE TERM OF APPROVAL TO DA526/06 FOR FOUR STOREY RESIDENTIAL AND COMMERCIAL DEVELOPMENT WITH UNDERCROFT PARKING (AT ET17/08)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Responsible Officer: Manager Development Services
Actioning Officer: Senior Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: DA626/03 DA526/06
Attachments: Development plans
Date Received: 3 November 2008
Owner Name: D Geyer
Submitted by: SIA Architects Pty Ltd
Scheme: Commercial – R60
Heritage Listing: Not listed
Existing Land use: Vacant



EXECUTIVE SUMMARY

The application is referred to the Planning Services Committee for determination as the previous applications for Planning Approval on the subject site were determined by the Committee.

On 16 March 2004 the City granted approval under the provisions of Town Planning Scheme No. 3 (TPS3) for the construction of a Four Storey Residential and Commercial (Retail – Other) Development with Undercroft Parking at No. 20 Kwong Alley, North Fremantle (refer DA626/03). A 12 month extension of time to DA626/03 was approved by the City on 6 June 2006.

On 17 January 2007 the City approved an amendment to DA626/03 (refer DA526/06) under TPS3. This approval required the development be substantially commenced within two years from the date of the decision letter.

The applicant requests a one year extension to the term of Planning Approval issued by the City based upon the delays in arranging finance.

City of Fremantle policy *L.P.P1.1: Amendment to and Extension to the Term of Planning Approvals* requires an assessment of the subject application for the extension of time as to whether there have been any material changes to the scheme or relevant planning policy, whether a discretion was exercised in granting the approval and whether a material change to the site or surrounding locality has occurred.

The primary point of consideration for the assessment of the application is considered to be with regard to the changes to the applicable Scheme provisions since the time of approval. Upon the change from TPS3 to Local Planning Scheme No.4 in March 2007, the Multiple Dwelling land use became an 'X' use and the applicable height provisions for the site reduced. These are considered to be material changes to the Scheme provisions.

As a result, the application is recommended for refusal.

BACKGROUND

On 16 March 2004 the City granted approval under the provisions of Town Planning Scheme No. 3 (TPS3) for the construction of a Four Storey Residential and Commercial (Retail – Other) Development with Undercroft Parking at No. 20 Kwong Alley, North Fremantle (refer DA626/03). The commercial component was intended to be a windsurfing equipment showroom. This approval allowed the development to commence the use and/or construction within two years and to be completed within three years.

A 12 month extension of time to DA626/03 was approved by the City on 6 June 2006.

On 17 January 2007 the City approved an amendment to DA626/03 (refer DA526/06) under TPS3 which involved the following amendments to that previously approved:

- A reduction in retail ground floor space with the remaining area being converted into a single bedroom dwelling;
- The conversion of the first floor into a two bedroom apartment; and
- Reconfiguration of the on-site car bays.

This approval (DA526/06) required the development be substantially commenced within two years from the date of the decision letter. Consequently, works are required to commence on this approved development prior to 17 January 2009 unless an extension to the term of approval is approved by the City.

The City has received an application for building license for the previously approved development.

DETAILS

A request for the extension to the term of Planning Approval for the four storey mixed use commercial and residential development plus basement car parking area approved for No. 20 Kwong Alley, North Fremantle under DA526/06 has been received.

The applicant requests a one year extension to the term of Planning Approval issued by the City (DA526/06) based upon the delays in arranging finance. The applicant states that building licence drawings have been prepared and tenders called to date.

STATUTORY AND POLICY ASSESSMENT

Clause 10.5.2 of the LPS4 states that Council may approve an extension of the term of planning approval.

As the application for the extension of time was received prior to 17 January 2009, the City has the ability to grant approval under Clause 10.5.2 of LPS4 and the City's Local Planning Policy *L.P.P1.1: Amendment to and Extension to the Term of Planning Approvals* (LPP 1.1).

L.P.P1.1 outlines the manner in which the City will deal with requests for the extension to the term of planning approvals.

Clause 3.1 of the policy states that where an extension is granted, a period of up to a further two years can be granted.

Clause 3.2 outlines that for such a request, Council may have regard to the following:

- (a) *whether the scheme or a relevant planning policy has changed in a material way since the planning approval was granted;*
- (b) *whether in granting the planning approval, a discretion was exercised in relation to the Scheme or policy requirements; and*
- (c) *whether a material change has occurred to either the site to which the planning approval relates or the surrounding locality since the planning approval was granted.*

CONSULTATION

The application for the extension of time is not required to be advertised under the provisions of LPS4 or City of Fremantle policy *L.P.P1.3: Public Notification of Planning Proposals*.

PLANNING COMMENT

The request for an extension of time for a Planning Approval is required to be assessed against the criteria set out in Clause 3.2 of L.P.P1.1, as shown above. The assessment of the request against the criteria contained in Clause 3.2 of LPP1.1 is discussed below:

- (a) *whether the scheme or a relevant planning policy has changed in a material way since the planning approval was granted;*

Changes have occurred to the relevant Scheme, Residential Design Codes and Policy provisions since the date of Planning Approval. These will be addressed individually below.

Changes to the Scheme

Planning approval: DA523/06 was granted under the provisions of TPS3. On 8 March 2007, the City adopted Local Planning Scheme No. 4 (LPS4) which superseded TPS3.

The subject site was not zoned under TPS3. However as the site was located just outside the area bound by Development Plan 8 – Queen Victoria Street, Tydeman Road, Stirling Highway and the Swan River, the development application was assessed against the provisions of Development Plan 8. This approach had previously been adopted for the assessment of similar applications in the area.

The proposed development involved the construction of three multiple dwellings and a commercial tenancy (approved under Retail – Other). Retail – Other under TPS3 was defined as:

All retailing and related services other than the foregoing, including the sale of petrol and the sale and hire of motor vehicles, boats and equipment, building materials and equipment, household fittings and the like and capital goods for businesses.

Under TPS3, the multiple dwellings were approved under the land use: Residence – Private which was defined as:

The occupancy of a dwelling house or unit, or of a group or multiple dwelling designed primarily for one separate family although it may be occupied by others.

Both of these uses were 'AA' uses under the Development Area 8 zoning of TPS3 which meant that the use was not permitted unless consent approved by Council.

With respect to development control, the proposed development was assessed against the provisions of Development Area 8 and due to the removal of the proposed ground floor single bedroom dwelling via Condition 1 of the approval; no variations to the TPS3 provisions were required.

Upon the adoption of LPS4 on 8 March 2007, the subject site was zoned Commercial – R60.

The applicable land uses and their definitions changed between TPS3 and LPS4. Under LPS4, the proposed windsurfing showroom falls within the Showroom definition which states:

Means premises used to display, sell by wholesale or retail, or hire, automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools or goods of a bulky nature.

The Showroom land use within the Commercial zone under LPS4 is a 'D' use, meaning the use is not permitted unless the City has exercised its discretion by granting planning approval. This is comparable to the 'AA' use under TPS3.

Under TPS3, the multiple dwellings were assessed as Residence – Private. Under LPS4, Multiple Dwellings are a separate land use and within the Commercial zone are an 'X' use. This means that the Multiple Dwelling land use is not permitted under LPS4.

It is acknowledged that multiple dwellings as part of mixed use developments have been approved for a number of sites to the north of the subject site (6-10 Kwong Alley, No. 12 Kwong Alley and No. 16 & 18 Kwong Alley) which are all also now zoned Commercial under LPS4. In addition, the sites to the east of the subject site are all zoned Mixed Use under LPS4 however the majority of the developments that have been constructed are Single Houses or Grouped Dwellings.

As Multiple Dwellings are now an 'X' use under LPS4, it is considered that there has been a material change to the relevant Scheme provisions. Were the subject application to require re-assessment under LPS4, the approved multiple dwellings would not be able to be approved.

With respect to height, TPS3 stated the following:

The overall form of development should be consistent with the present form and scale of North Fremantle's built environment. In respect of residential use in particular, this implies low and medium rise, up to a maximum of five storeys, developments offering a range of dwelling types;

The proposed development is four storeys and therefore complied with this TPS3 provision.

Upon the gazettal of LPS4, the maximum external wall height restriction for the site is 7.5m. The wall height approved for the proposed development under TPS3 was 12.3m. Consequently, were the development application submitted for assessment under LPS4, it would need to satisfy Clause 5.8.1 of LPS4: *Variation to height requirements*:

Where sites contain or are adjacent to buildings that depict a height greater than that specified in the general or specific requirements in schedule 12, Council may vary the maximum height requirements subject to being satisfied in relation to all of the following –

- (a) *the variation would not be detrimental to the amenity of adjoining properties or the locality generally,*
- (b) *degree to which the proposed height of external walls effectively graduates the scale between buildings of varying heights within the locality,*
- (c) *conservation of the cultural heritage values of buildings on-site and adjoining, and*
- (d) *any other relevant matter outlined in Council's local planning policies.*

The first part of Clause 5.8.1 requires an assessment about whether the site contains or is adjacent to buildings that depict a height greater than that specified in Schedule 12. If this is not the case, this clause to vary the height provisions within Schedule 12 cannot apply.

The subject site is presently vacant. For the purpose of this report, the term 'adjacent' is considered to apply to those sites close to the subject site which include the properties across Kwong Alley to the east, the properties to the north of the site on Kwong Alley and No. 2 Doepel Street to the south.

No. 2 Doepel Street and Nos. 16 & 18 Kwong Alley share a property boundary with the site and are presently vacant of structures with the exception of a temporary viewing tower on No. 2 Doepel Street. Notwithstanding this, Planning Approval has been issued for both of these adjoining properties, including a five storey building at No.2 Doepel Street and a mixed use building with a 13.8m external wall height for Nos. 16 & 18 Kwong Alley. However as construction has not commenced to date for these approved developments they cannot be taken into consideration as the existing height of adjacent sites, only that approved for the adjacent sites.

Of the existing developments and developments under construction on the surrounding properties, it is noted that Nos. 12, 14 and 15 Kwong Alley all contain buildings which are of greater external wall height than that specified by LPS4. Consequently, the existing developments within sites on adjacent properties depict a height greater than that specified in Schedule 12. As a result, the first part of Clause 5.8.1 is likely to be considered satisfied and it is also considered likely that a variation to the height provisions of LPS4 could be supported based upon compliance with sub-clauses (a) – (d) of Clause 5.8.1.

Notwithstanding the above, the change in the height provisions from TPS3 to LPS4 is considered a material change to the Scheme. The maximum height restriction applicable for the site has significantly decreased from five storeys under TPS3 to approximately three storeys under LPS4 (7.5m external wall height generally allows up to three storey development).

Residential Design Codes

The approved development was assessed against the Mixed Use provisions of the Residential Design Codes 2002. A variation under these R-Codes was required for the proposed development as no outdoor living area for the ground floor single bedroom dwelling was proposed. However this variation was not supported and Condition 1 of the approval required the removal of the single bedroom dwelling.

An amendment to the Residential Design Codes was adopted in April 2008. None of the amendments were to the Mixed Use provisions contained within Part 7 of the Residential Design Codes.

Council Policies

The relevant local planning policies for the subject site are *D.G.N7: Northbank Development Guidelines* and *D.G.N6: North Fremantle Foreshore Plan*. These policies have not altered since the date of planning approval and still apply to the assessment of developments on the subject site. No other Council policies that are of relevance to the assessment of the approved development have been adopted since the time of approval.

(b) whether in granting the planning approval, a discretion was exercised in relation to the Scheme or policy requirements; and

In the granting of the Planning Approval, two primary variations were sought. One variation was for a reduction in the required number of commercial car bays from four to three which was supported.

The other proposed variation was to waive the requirement to provide an outdoor living area for the ground floor single bedroom dwelling. This variation was not supported and Condition 1 of the approval required the removal of the single bedroom dwelling.

Notwithstanding the above, in its current form the proposed development under LPS4 would require the discretion of Council to approve the height if the application was received today for Planning Approval. Additionally, as multiple dwellings within the Commercial zone are an 'X' activity, it is unlikely that Council would have a ability to approve these under LPS4.

(c) whether a material change has occurred to either the site to which the planning approval relates or the surrounding locality since the planning approval was granted.

No material change has occurred to the subject site since the granting of Planning Approval. In terms of development within the surrounding area, the land to the west is still in residential use and the land to the south is still vacant (although approval has been granted for this site No. 2 Doepel Street). Development has occurred to the north of the subject site however this is of similar scale and use to that approved for the subject site. Consequently, no significant material change has occurred to the subject site or surrounding locality since the time planning approval was granted.

CONCLUSION

City of Fremantle policy *L.P.P1.1: Amendment to and Extension to the Term of Planning Approvals* requires an assessment of the subject application for the extension of time as to whether there have been any material changes to the scheme or relevant planning policy, whether a discretion was exercised in granting the approval and whether a material change to the site or surrounding locality has occurred.

The primary point of consideration for the assessment of the application is considered to be with regard to the changes to the applicable Scheme provisions since the time of approval.

Upon the change from TPS3 to LPS4 in March 2007, the Multiple Dwelling land use became an 'X' use and the applicable height provisions for the site reduced. These are considered to be material changes to the Scheme provisions. As a result, the application is recommended for refusal.

OFFICER'S RECOMMENDATION

MOVED: Mayor, Peter Tagliaferri

That the application be REFUSED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Extension to the Term of Planning Approval (DA526/06) for the Four Storey Residential / Commercial Development with Undercroft Parking at No 20 (Lot 79) Kwong Alley, North Fremantle, for the following reasons:

- 1 There has been a material change to the Scheme provisions relating to land use and height since the date the development was approved.

Cr R Fittock moved to defer the item to the Planning Services Committee to be held on 4 February 2009.

CARRIED: 5/0

For	Against
Mayor, Peter Tagliaferri Cr John Alberti Cr Robert Fittock Cr Donna Haney Cr Bill Massie	

REASON/S FOR DEFFERAL

The applicant requested deferral to provide opportunity to further discuss this matter.

CONFIDENTIAL MATTERS

Nil.

CLOSURE OF MEETING

THE PRESIDING MEMBER DECLARED THE MEETING CLOSED AT 6:29 PM.

SUMMARY GUIDE TO CITIZEN PARTICIPATION AND CONSULTATION

The Council adopted a Participation Policy in August 2001 to give effect to its commitment to involving citizens in its decision-making processes.

The City values citizen participation and recognises the benefits that can flow to the quality of decision-making and the level of community satisfaction.

Effective participation requires total clarity so that Elected Members, Council officers and citizens fully understand their respective rights and responsibilities as well as the limits of their involvement in relation to any decision to be made by the City.

How consultative processes work at the City of Fremantle	
The City's decision makers	1. The Council, comprised of Elected Members, makes policy, budgetary and key strategic decisions while the CEO, sometimes via on-delegation to other City officers, makes operational decisions.
Various participation opportunities	2. The City provides opportunities for participation in the decision-making process by citizens via its Advisory Committees and Task Forces, its Community Precinct System, and targeted consultation processes in relation to specific issues or decisions.
Objective processes also used	3. The City also seeks to understand the needs and views of the community via scientific and objective processes such as its annual Community Survey.
All decisions are made by Council or the CEO	4. These opportunities afforded to citizens to participate in the decision-making process do not include the capacity to make the decision. Decisions are ultimately always made by Council or the CEO (or his/her delegated nominee).
Precinct focus is primarily local, but also city-wide	5. The Community Precinct System establishes units of geographic community of interest, but provides for input in relation to individual geographic areas as well as on city-wide issues.
All input is of equal value	6. No source of advice or input is more valuable or given more weight by the decision-makers than any other. The relevance and rationality of the advice counts in influencing the views of decision-makers.
Decisions will not necessarily reflect the majority view received	7. Local Government in WA is a representative democracy. Elected Members and the CEO are charged under the Local Government Act with the responsibility to make decisions based on fact and the merits of the issue without fear or favour and are accountable for their actions and decisions under law. Elected Members are accountable to the people via periodic elections. As it is a representative democracy, decisions may not be made in favour of the majority view expressed via consultative processes. Decisions must also be made in accordance with any statute that applies or within the

How consultative processes work at the City of Fremantle	
	parameters of budgetary considerations. All consultations will clearly outline from the outset any constraints or limitations associated with the issue.
Decisions made for the overall good of Fremantle	8. The Local Government Act requires decision-makers to make decisions in the interests of "the good Government of the district". This means that decision-makers must exercise their judgment about the best interests of Fremantle as a whole as well as about the interests of the immediately affected neighbourhood. This responsibility from time to time puts decision-makers at odds with the expressed views of citizens from the local neighbourhood who may understandably take a narrower view of considerations at hand.
Diversity of view on most issues	9. The City is wary of claiming to speak for the 'community' and wary of those who claim to do so. The City recognises how difficult it is to understand what such a diverse community with such a variety of stakeholders thinks about an issue. The City recognises that, on most significant issues, diverse views exist that need to be respected and taken into account by the decision-makers.
City officers must be impartial	10. City officers are charged with the responsibility of being objective, non-political and unbiased. It is the responsibility of the management of the City to ensure that this is the case. It is also recognised that City Officers can find themselves unfairly accused of bias or incompetence by protagonists on certain issues and in these cases it is the responsibility of the City's management to defend those City officers.
City officers must follow procedures	11. The City's consultative processes must be clear, transparent, efficient and timely. City officers must ensure that policies and procedures are fully complied with so that citizens are not deprived of their rights to be heard.
Consultation processes have cut-off dates that will be adhered to.	12. As City officers have the responsibility to provide objective, professional advice to decision-makers, they are entitled to an appropriate period of time and resource base to undertake the analysis required and to prepare reports. As a consequence, consultative processes need to have defined and rigorously observed cut-off dates, after which date officers will not include 'late' input in their analysis. In such circumstances, the existence of 'late' input will be made known to decision-makers. In most cases where citizen input is involved, the Council is the decision-maker and this affords citizens the opportunity to make input after the

How consultative processes work at the City of Fremantle	
	cut-off date via personal representations to individual Elected Members and via presentations to Committee and Council Meetings.
Citizens need to check for any changes to decision making arrangements made	13. The City will take initial responsibility, via 'Consultation Process notifications', for making citizens aware of expected time-frames and decision making processes, including dates of Standing Committee and Council Meetings if relevant. However, as these details can change, it is the citizens responsibility to check for any changes by visiting www.freofocus.com/projects/html/default.cfm , checking the Port City Column in the Fremantle Herald or inquiring at the Service and Information Desk by phone or in-person.
Citizens are entitled to know how their input has been assessed	14. In reporting to decision-makers, City officers will in all cases produce a Schedule of Input received that summarises comment and recommends whether it should be taken on board, with reasons.
Reasons for decisions must be transparent	15. Decision-makers must provide the reasons for their decisions.
Decisions posted on www.freofocus.com/projects/html/default.cfm	16. Decisions of the City need to be transparent and easily accessed. For reasons of cost, citizens making input on an issue will not be individually notified of the outcome, but can access the decision at www.freofocus.com/projects/html/default.cfm or at the City Library or Service and Information counter.

ISSUES THAT COUNCIL MAY TREAT AS CONFIDENTIAL

Section 5.23 of the new Local Government Act 1995, Meetings generally open to the public, states:

1. Subject to subsection (2), the following are to be open to members of the public -
 - a) all council meetings; and
 - b) all meetings of any committee to which a local government power or duty has been delegated.
2. If a meeting is being held by a council or by a committee referred to in subsection (1) (b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following:
 - a) a matter affecting an employee or employees;
 - b) the personal affairs of any person;
 - c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
 - d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
 - e) a matter that if disclosed, would reveal –
 - i) a trade secret;
 - ii) information that has a commercial value to a person; or
 - iii) information about the business, professional, commercial or financial affairs of a person.Where the trade secret or information is held by, or is about, a person other than the local government.
 - f) a matter that if disclosed, could be reasonably expected to -
 - i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
 - ii) endanger the security of the local government's property; or
 - iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety.
 - g) information which is the subject of a direction given under section 23 (1a) of the Parliamentary Commissioner Act 1971; and
 - h) such other matters as may be prescribed.
3. A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

City of Fremantle

MINUTES ATTACHMENTS

Planning Services Committee

Wednesday, 7 January 2009



TABLED DOCUMENT RELATING TO PSC0901-349.

This is a reprint of a scanned image

PSC0901-349 KWONG ALLEY NO 20. (LOT) 79.

S I

29 DEC 2008

CENTRE

To the Chief Executive Officer
(City of Fremantle)

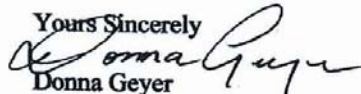
Date: 28/12/08

Dear Sir,

This is a formal request to defer the decision about the extension of the Design Application for Lot 79 Kwong Alley, North Fremantle, from the council meeting of the 7th of January 2009 to 4th of February 2009 or thereabouts.

This will give me time to discuss the matter in detail with the local ward councillors before they meet to decide on the matter.

Yours Sincerely



Donna Geyer
Owner Lot 79 Kwong Alley
North Fremantle.

CITY OF FREMANTLE	
Date Rec	29 DEC 2008
Class	
Subject	059/002
DA/Legal	ET 17/08
Property	20 KWONG ALLEY
Related No	
Send to	DTO - A. Templeton
	SA
Date	

TABLED DOCUMENT RELATING TO PSC0901-353



1. Swanbourne Street Structure Plan as Previously Adopted

0 25 50 75 metres
 February 2002 Revised: April 2003
 L13w

 Masterplan Consultants (WA) Pty Ltd

Structure Plan

Figure 7

Source: D.O.L.A. & Masterplan Consultants (WA) Pty Ltd

